

EXHIBIT C

Stephen Melia

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF TEXAS
3 SAN ANTONIO DIVISION

4 NANCY CASTRO, &
5 PLAINTIFF &
6 VS. &
7 & Civil Action No.
8 WAL-MART, INC., CINTAS & 5:1-CV-00702-XR
9 CORPORATION NO. 2 D/B/A CINTAS &
10 CORPORATION, WAL-MART STORES &
11 TEXAS, LLC, AND WAL-MART REAL &
12 ESTATE BUSINESS TRUST, &
13 DEFENDANTS &
14

15
16 ORAL AND VIDEOTAPED DEPOSITION OF
17 STEPHEN MELIA
18 SEPTEMBER 15, 2022
19
20

21 ORAL AND VIDEOTAPED DEPOSITION of STEPHEN MELIA
22 produced as a witness at the instance of the Plaintiff, and
23 duly sworn, was taken in the above-styled and numbered cause
24 on the 15th of September 2022 from 2:03 p.m. to 4:36 p.m.,
25 before Christie Tawater, CSR, RPR, in and for the State of
Texas, reported by computerized stenotype machine remotely
via Zoom from her home located in Fort Worth, Texas
pursuant to the Federal Rules of Civil Procedure and the
provisions stated on the record or attached hereto; that the
deposition shall be read and signed before any notary public
pursuant to Rule 30(e)(1). Job No. 57851

Stephen Melia

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APPEARANCES

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APPEARANCES CONTINUED

ALSO PRESENT: THE VIDEOGRAPHER

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CERTIFIED QUESTIONS/INSTRUCTIONS NOT TO ANSWER

NONE

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Stephen Melia

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| <p style="text-align: right;">(Page 6)</p> <p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: We can go on the</p> <p>3 record at 2:03 p.m.</p> <p>4 (Witness sworn.)</p> <p>5 THE COURT REPORTER: Can you, please,</p> <p>6 state where you are located, city, state and county.</p> <p>7 THE WITNESS: Yes. It is in Fomey,</p> <p>8 F-O-R-N-E-Y, Texas, and that is in Kaufman County.</p> <p>9 THE COURT REPORTER: Okay. And I am</p> <p>10 Christie Moss. I'm the court reporter. I'm located</p> <p>11 in Fort Worth, Texas, Tarrant County.</p> <p>12 Counsel, you may proceed.</p> <p>13 STEPHEN MELIA,</p> <p>14 having been first duly sworn, testified as follows:</p> <p>15 EXAMINATION</p> <p>16 BY MR. WILLIAMS:</p> <p>17 Q. Good afternoon, sir.</p> <p>18 A. Good afternoon.</p> <p>19 Q. Can you, please, state your name for the</p> <p>20 record.</p> <p>21 A. Yes. Stephen Melia.</p> <p>22 Q. And when I say the incident, can we agree</p> <p>23 that I'm talking about Nancy Castro's trip-and-fall</p> <p>24 that happened on February 25th, 2020 at the Walmart</p> <p>25 gas station in Universal City, Texas?</p> | <p style="text-align: right;">(Page 8)</p> <p>1 of the time was spent in the safety and loss</p> <p>2 prevention or SF protection division for Walmart and</p> <p>3 Sam's.</p> <p>4 Q. Now, you talked a little bit about a loss</p> <p>5 prevention director.</p> <p>6 Did you get promoted to a regional</p> <p>7 loss prevention director?</p> <p>8 A. Yes. I was promoted, I believe, in 1995</p> <p>9 from a district LP manager to a regional loss</p> <p>10 prevention director.</p> <p>11 Q. And what does that role consist of?</p> <p>12 A. All of the aspects of -- of loss prevention</p> <p>13 in the role as Walmart defined it involved every</p> <p>14 aspect of providing a safe environment for the</p> <p>15 customers and the associates, investigating incident</p> <p>16 or accident claims, ensuring stores were maintaining</p> <p>17 safety within the guidelines, as well as the more</p> <p>18 traditional loss prevention aspect of conducting</p> <p>19 internal and external investigations, audits,</p> <p>20 reviewing general operational procedures within</p> <p>21 the -- within the stores.</p> <p>22 Q. What does accident prevention mean?</p> <p>23 A. It simply states the process of knowing</p> <p>24 your environment, assessing the environment for any</p> <p>25 known risks and then taking steps to mitigate or</p> |
| <p style="text-align: right;">(Page 7)</p> <p>1 A. Yes.</p> <p>2 Q. And when I say Walmart, can we agree that</p> <p>3 I'm referring to the Walmart gas station that's</p> <p>4 located at 510 Kitty Hawk Road in Universal City,</p> <p>5 Texas?</p> <p>6 A. Yes.</p> <p>7 Q. Have you ever worked at Walmart or Sam's</p> <p>8 Club?</p> <p>9 A. Yes, I have.</p> <p>10 Q. When did you first start working there?</p> <p>11 A. It was in 1984 when I first was hired on</p> <p>12 with Walmart.</p> <p>13 Q. How many years total did you work for them?</p> <p>14 A. With Walmart Stores, Inc., which included</p> <p>15 the -- the Walmart store format as well as Sam's Club</p> <p>16 division, it was 31 years.</p> <p>17 Q. What did your role consist of whenever you</p> <p>18 first started out with them?</p> <p>19 A. Well, initially, started working in the</p> <p>20 stores at -- at the age of 19 and was just a general</p> <p>21 stocker, cart attendant, associate to assist the</p> <p>22 store on a part-time basis. Through the years it</p> <p>23 evolved into newer elevated positions to an assistant</p> <p>24 manager within a store and then to a district loss</p> <p>25 prevention supervisor throughout my career, remainder</p> | <p style="text-align: right;">(Page 9)</p> <p>1 correct unsafe conditions to prevent an incident from</p> <p>2 happening, obviously, before it occurs is the</p> <p>3 objective.</p> <p>4 Q. And were you in charge of preventing</p> <p>5 accidents and mitigating unsafe conditions?</p> <p>6 A. Well, it's certainly everyone's</p> <p>7 responsibility, and in my role it would have been in</p> <p>8 the area of teaching, leading, directing, correcting,</p> <p>9 situations, be it a -- a process breakdown or a -- a</p> <p>10 new risk that may be identified that we want to</p> <p>11 ensure we have compliance, adequate measures in place</p> <p>12 within the store. So as my position developed over</p> <p>13 the years from a store level to a district to</p> <p>14 regional level, of course, that scope expanded into</p> <p>15 traveling to the store locations, meeting with</p> <p>16 management teams, safety teams, to not only teach and</p> <p>17 educate but also inspect the premises and -- and</p> <p>18 ensure that procedures were being followed.</p> <p>19 Q. Did you teach and educate Walmart employees</p> <p>20 on how to prevent customers from tripping over rugs?</p> <p>21 A. It would have been one of the standard</p> <p>22 expectations, if you will, when I would go to a store</p> <p>23 for a -- a -- a visit certainly would look at a</p> <p>24 number of things, slip-and-falls being one of them,</p> <p>25 or I should say the risk of, so that would include</p> |

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| <p>(Page 10)</p> <p>1 the entrances. Of course, it'd really start in the 2 parking lot, from the parking lot to the entrance 3 doors, all the way to the back room just to ensure 4 safe standards were being followed in relation to the 5 floor conditions. 6 Q. And do you remember what you taught about 7 how to -- or excuse me. 8 Do you remember what you taught about 9 how to prevent customers from tripping over rugs to 10 these Walmart employees? 11 A. Well, in a -- in a general sense, I mean, 12 certainly training, and -- and over time procedures 13 are developed and -- and improved, if you will. But 14 in -- in the general sense over the years it has 15 always started with an awareness certainly of what 16 the procedure is that is expected. And by the 17 awareness is the observation to ensure that the 18 floors are inspected as part of the -- the routine 19 of -- of maintaining a safe floor environment if it 20 involved elevation changes or going from a carpeted 21 area to a -- a tile area or from a mat that may be 22 placed on the floor to a tile area. So there were a 23 number of expectations from a safety professional 24 that you would look at, and then, of course, teach 25 and train to -- to those expectations.</p> | <p>(Page 12)</p> <p>1 implementation of closed-circuit TV, the procurement 2 of the items, the installation through our in-house 3 or through third-party contractors, so it was more of 4 the physical security, premise's security from that 5 perspective. 6 Q. And when did you get promoted to that 7 position? 8 A. Probably need to refer to my resume if I 9 can grab it here. 10 That was in, let's see, summer of 11 transition from a regional loss prevention role in 12 1999, and again, as more of a lateral move over to 13 the security services director, and that was for 1999 14 to 2001. 15 Q. Did you testify on behalf of Walmart during 16 that time? 17 A. I have testified on behalf of Walmart in 18 various capacities over my years. I don't have a -- 19 a recollection of the specific years or -- or 20 anything of that nature, but that would have been one 21 of my responsibilities at that time, so likely the 22 answer would be, yes. 23 Q. And when Walmart prepared you to testify on 24 their behalf did they teach you about when a rug is 25 safe or unsafe?</p> |
| <p>(Page 11)</p> <p>1 Q. After that role did you get promoted to 2 security services director? 3 A. I did. It was a lateral move. 4 THE COURT REPORTER: Hold on. Hold on 5 one second, sir. Sir, one second. 6 Mr. Williams, you cut out that whole 7 question. 8 MR. WILLIAMS: Oh. 9 THE COURT REPORTER: So if you can 10 reask it. I -- I -- I just got that you did 11 promote, promoted to. 12 MR. WILLIAMS: Beth, Evan, you guys 13 having that same audio issue? 14 MR. PATTERSON: No. I heard you. 15 MS. HERRERA: Mine was okay. 16 THE COURT REPORTER: Okay. 17 MR. WILLIAMS: Okay. I'll -- I'll 18 just reask it then. 19 Q. (BY MR. WILLIAMS) Sir, did you get 20 promoted to security and services director? 21 A. Yes, I did. 22 Q. And what did that role consist of? 23 A. That role involved more of the security 24 functions to support all of the Walmart stores, Sam's 25 Clubs and distribution centers with the</p> | <p>(Page 13)</p> <p>1 MS. HERRERA: Objection, form. 2 THE WITNESS: Yeah. I -- I wouldn't 3 recall any of the specifics. Again, the -- the 4 deposition testimony certainly would have been -- 5 relate to the facts in the case and in giving factual 6 testimony based on whatever the -- the case may have 7 involved. 8 Q. (BY MR. WILLIAMS) And how long were you in 9 this role for? 10 A. I was in that role for about two years, 11 and -- and then moved into the role of director of 12 security and alarm services until 2003. So the 13 transition, essentially, went from leading and 14 directing the -- the premise's security, CCTB, 15 procurement and installation to taking on additional 16 responsibility for the Walmart corporate alarm 17 division which then became the security and alarm 18 services, so it was really combined and elevated to 19 that next level of supervision of that -- of that 20 entire grate [SIC] for the security and the alarm 21 division. 22 Q. And whenever you were in that role did you 23 learn about how the cameras and security footage in 24 Walmart worked? 25 A. Yes. Of course, I was familiar with it</p> |

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| <p>(Page 14)</p> <p>1 prior to that but more directly involved in the 2 aspect of purchase and installation. 3 Q. And did you learn about the quality of 4 video footage that those cameras take for their 5 security footage? 6 A. I would say, yes, in the general sense. I 7 was not the technical expert. There were people that 8 worked for me that have a greater understanding of 9 the technical aspects. It certainly has evolved from 10 black and white cameras to color cameras and now 11 digital and IP cameras, so -- but familiar enough, 12 but not -- not an expert in those areas. 13 Q. How long were you in the role -- or how 14 long were you in that role for? 15 A. So the two combined roles as security 16 service director and director of security and alarm 17 services, 1999 to 2003, so about four years. 18 Q. And after that did you get promoted to the 19 regional director of safety and asset protection as 20 well. 21 A. That would have been, I would say, more of 22 a lateral move again, just different title, headings, 23 but the basic same level of supervision, if you will, 24 (Zoom failure) work for the same (Zoom failure) 25 division and learned aspect of (Zoom failure) and</p> | <p>(Page 16)</p> <p>1 stores. It -- it would range from 100 stores. I 2 think the most I had at -- at one time was a little 3 over 200 Sam's Clubs in my area of responsibility. 4 Q. How long were you in that role for? 5 A. I was with Sam's from 2003 until 2015. 6 Some of that time in Bentonville, Arkansas, and then 7 from 2010 to 2015 was here in the Dallas/Fort Worth 8 area. 9 Q. And what were you doing from 2010 to 2015? 10 A. So I was the senior director of asset 11 protection, safety compliance, again, for Sam's 12 Clubs. Reorganization of the company, I believe at 13 one point, I had half of the company, mostly from the 14 southern territories from California to Florida 15 and -- and the number of Sam's Clubs, and, of course, 16 in those areas and -- same basic expectation, 17 leading, directing teams in -- in the field of 18 operations and the asset protection teams to ensure 19 we were maintaining safe, secure premises and 20 following compliance procedures. 21 Q. So you went from the regional director of 22 safety to the senior director of safety; is that 23 fair? 24 A. That's correct. 25 Q. And all total about how many stores did you</p> |
| <p>(Page 15)</p> <p>1 then as the regional director of asset protection 2 safety and compliance in 2003, which, essentially, 3 evolved from the older terminology of loss prevention 4 or safety and loss prevention. 5 Q. And what did your job as the regional 6 director of safety consist of? 7 A. So in that role it was, again, responsible 8 for a number of Sam's Clubs. At different times it 9 was different geographic locations across the country 10 and traveling to those locations with operation vice 11 presidents and other members of the team to visit the 12 Sam's Club locations, meet with the teams, inspect 13 the premises, of course, and appreciate them for 14 doing a good job, as well as ensuring corrections 15 were in place if something was needing to be 16 addressed in the area of safety or -- or asset 17 protection or compliance. 18 Q. Now, all total, about how many stores were 19 you responsible for the customer safety? 20 A. Well, I would say that there certainly were 21 expectations that it started at the store level with 22 the associates and the assistant manager, store 23 manager, on up the line, so it was a -- a combined 24 effort, but my overall responsibility was to help 25 lead, teach and direct those leaders and visit the</p> | <p>(Page 17)</p> <p>1 oversee regarding customer safety whenever you were 2 the senior director of safety? 3 A. So towards the end it was -- it was 4 continuing to evolve, but it went from about 200 5 Sam's Clubs to -- to having half of the company, so 6 about 300 Sam's Clubs there towards the later part 7 of, you know, the time that I was with Sam's in 2015. 8 Q. And are the safety standards the same in 9 Walmart and Sam's Club? 10 A. Well, there certainly are differences 11 because of the nature of the business involving Sam's 12 and -- and the type of -- size of merchandise and -- 13 and the set up of the facility. But, in general, 14 safety procedures in many cases in retail and 15 grocery, you know, entities where the public is 16 invited, the same standards apply in relation to 17 customer safety, preventing slips, trips, falls from 18 occurring in the standards that go with, you know, 19 providing that level of awareness, notification 20 and -- and prevention of those types of incidents I 21 would say were very -- very consistent with -- with 22 Walmart and Sam's and -- and within the industry. 23 Q. And would you say that Walmart safety 24 standards and Sam's safety standards are the same or 25 similar whenever it comes to trip-and-fall prevention</p> |

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| <p>(Page 18)</p> <p>1 or entrance mats?</p> <p>2 A. Yes, I would say that is correct.</p> <p>3 Q. Okay. And why would you say that?</p> <p>4 A. Well, just certainly my knowledge of</p> <p>5 expectations there's, you know, a very defined</p> <p>6 location of -- of an entranceway. While you may have</p> <p>7 different flooring materials you certainly have</p> <p>8 procedures, and Walmart and Sam's were very similar</p> <p>9 in the procedures in the placement of the floor mats</p> <p>10 and the purpose of the floor mats during inclement</p> <p>11 weather, or otherwise, to ensure that the transitions</p> <p>12 from outside of the facility to the inside provided a</p> <p>13 safe transition for customers --</p> <p>14 Q. Are you familiar with the general industry</p> <p>15 safety standards for trip-and-fall prevention?</p> <p>16 A. I am, yes.</p> <p>17 Q. How so?</p> <p>18 A. Well, certainly the experience obtained</p> <p>19 over the years and attending numerous conferences,</p> <p>20 understanding OSHA expectations for floor safety,</p> <p>21 and, obviously, OSHA deals with employee safe work</p> <p>22 practices, but many of the same standards in safe</p> <p>23 walking conditions apply to areas where you have</p> <p>24 customers walking in -- in generally the same area,</p> <p>25 so entrance doors, for example. So the standards are</p> | <p>(Page 20)</p> <p>1 Q. How so?</p> <p>2 A. So from my last tenure there at Gateway</p> <p>3 Church as director -- as executive director of safety</p> <p>4 services I have started my own consulting business in</p> <p>5 2015. I don't believe that's listed on there. So</p> <p>6 in -- in that role as the position in which -- as an</p> <p>7 independent security consultant would be providing</p> <p>8 review -- documentation review, providing opinions</p> <p>9 for litigation -- litigation support in areas of</p> <p>10 premise's safety and security. So that would be</p> <p>11 listed there. And I can certainly send an updated</p> <p>12 copy. But that's one area over the past seven years</p> <p>13 that I've maintained S dot [SIC] Melia Consulting.</p> <p>14 In that capacity I've also worked as an independent</p> <p>15 security contractor for my church through a third</p> <p>16 party, and then most recently, as of about three or</p> <p>17 four weeks ago, started a new position as a director</p> <p>18 of asset protection for a grocery -- a grocery store</p> <p>19 that has stores in Texas, Arkansas, Oklahoma and</p> <p>20 Louisiana.</p> <p>21 Q. Well, congratulations.</p> <p>22 A. Thanks.</p> <p>23 Q. When answering my questions today you agree</p> <p>24 you will only give an answer if it's to a reasonable</p> <p>25 degree of professional certainty?</p> |
| <p>(Page 19)</p> <p>1 fairly consistent and common in the areas of</p> <p>2 entrances, entrance mats that are utilized.</p> <p>3 Certainly there are companies that provide mats for</p> <p>4 stores and businesses to provide that level of</p> <p>5 consistency across an organization. And, of course,</p> <p>6 some stores may utilize their own or purchase their</p> <p>7 own mats. But the standards are generally there and</p> <p>8 aligned to, again, provide a safe walking surface</p> <p>9 then transition, for speaking specifically as in this</p> <p>10 case, of an entrance to a facility to ensure that</p> <p>11 safe transition from outside to inside the store.</p> <p>12 Q. And are you here today to offer your</p> <p>13 opinions as a safety expert on trip-and-fall</p> <p>14 prevention?</p> <p>15 A. Yes, I am.</p> <p>16 Q. And I'm going to briefly share my screen</p> <p>17 with you. Okay. Mr. Melia, can you see my screen</p> <p>18 fine?</p> <p>19 A. Yes, I can.</p> <p>20 Q. Is this a copy of your CV?</p> <p>21 A. It is. It's actually an older copy, but it</p> <p>22 is, I think, the one I would have submitted at the</p> <p>23 time for this case.</p> <p>24 Q. Has your CV changed any recently?</p> <p>25 A. It has.</p> | <p>(Page 21)</p> <p>1 A. Yes.</p> <p>2 Q. Who were you hired by in this case?</p> <p>3 A. I was hired in this case to give</p> <p>4 consultation -- hired by the DeSouza Law Firm.</p> <p>5 Q. And what for?</p> <p>6 A. To review the matter of Nancy Castro vs.</p> <p>7 Walmart Stores and Cintas in relation to a</p> <p>8 trip-and-fall incident that occurred at the Walmart</p> <p>9 fuel station there in Universal City, to provide</p> <p>10 review as well as testimony in the event that it was</p> <p>11 necessary, to offer opinions related to my</p> <p>12 conclusions of this incident.</p> <p>13 Q. And are your opinions regarding</p> <p>14 trip-and-fall prevention?</p> <p>15 A. Yes, they are.</p> <p>16 Q. And would your opinions today be any</p> <p>17 different if the Defendants or Walmart hired you?</p> <p>18 MS. HERRERA: Objection, form.</p> <p>19 THE WITNESS: No. I base my review on</p> <p>20 the facts of the case, as well as the industry</p> <p>21 standards, what's not only published but what's known</p> <p>22 to me in my experience, and those -- those would not</p> <p>23 change regardless of which -- defense or -- or</p> <p>24 plaintiff counsel would have retained me. The facts</p> <p>25 are as I would state them and offer opinions in this</p> |

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| <p>(Page 22)</p> <p>1 case.</p> <p>2 Q. (BY MR. WILLIAMS) Is there a method that</p> <p>3 you use to arrive at your opinions and conclusions?</p> <p>4 A. The terminology that I apply is, of course,</p> <p>5 based on the experience, but also based on the</p> <p>6 general OSHA industry standard with looking at a root</p> <p>7 cause analysis in determining not just what happened.</p> <p>8 So, in other words, not just to say someone tripped</p> <p>9 and fell, and not just to say someone tripped on a</p> <p>10 mat and fell, but to go further into examining the</p> <p>11 facts and defining it to the point where you really</p> <p>12 establish the point where the risk was generated.</p> <p>13 And -- and I've done that many times over the years</p> <p>14 to -- certainly as OSHA would state in their</p> <p>15 documentation, I believe I cited in one of my</p> <p>16 references, that your goal is to identify that root</p> <p>17 cause and put procedures in place to ensure that it</p> <p>18 doesn't occur again.</p> <p>19 Q. Is it standard practice in your industry to</p> <p>20 do a root cause analysis?</p> <p>21 A. It is, yes.</p> <p>22 Q. Why is that?</p> <p>23 A. Well, again, as I was giving the example if</p> <p>24 you -- if you just take an incident and stop at the</p> <p>25 initial conclusion you may not find the actual cause</p> | <p>(Page 24)</p> <p>1 been taken.</p> <p>2 Q. And so you learned the industry standards,</p> <p>3 learned the facts and determined the cause of</p> <p>4 incident?</p> <p>5 A. Yes.</p> <p>6 Q. Now, I want to go over those industry</p> <p>7 standards with you first. Okay?</p> <p>8 Are you familiar with safety first?</p> <p>9 A. Well, safety first is generally a slogan</p> <p>10 that a lot of companies adopt, and -- and sometimes</p> <p>11 in the construction industry, and certainly in the</p> <p>12 retail and other sectors, but certainly familiar with</p> <p>13 the slogan.</p> <p>14 Q. What does safety first mean to you?</p> <p>15 MS. HERRERA: Objection, form.</p> <p>16 THE WITNESS: Well, it certainly means</p> <p>17 that safety is an important factor in any business,</p> <p>18 providing a safe environment for customers, for</p> <p>19 associates. And so, again, it's a -- very much a --</p> <p>20 a -- a tag line, if you will, in the safety industry</p> <p>21 and in various other industries to ensure that it is</p> <p>22 creating an awareness for businesses to operate in a</p> <p>23 safe manner.</p> <p>24 Q. (BY MR. WILLIAMS) All right. And as a</p> <p>25 safety expert do you have an opinion on what safety</p> |
| <p>(Page 23)</p> <p>1 agent or the point in which the risk was originated</p> <p>2 that needs to be corrected, and so it's very common</p> <p>3 in -- in investigative work, which accident review or</p> <p>4 accident investigation would be considered, to ask</p> <p>5 all of the questions until you are at a point where</p> <p>6 you have that -- that conclusion of what caused the</p> <p>7 risk.</p> <p>8 Q. Did you do a root cause analysis in this</p> <p>9 case?</p> <p>10 A. I did.</p> <p>11 Q. And is your root cause analysis repeatable</p> <p>12 by a peer in your industry?</p> <p>13 A. Yes.</p> <p>14 Q. And how did you do a root cause analysis in</p> <p>15 this case?</p> <p>16 A. Again, from the study of the facts that</p> <p>17 were provided in this case, that being the incident</p> <p>18 report provided by Walmart, the photographs, the</p> <p>19 video, and then testimony, witness statements, et</p> <p>20 cetera. Again, a baseline of what the facts are.</p> <p>21 And from that begin to examine the points of risk</p> <p>22 throughout that process and determining what I would</p> <p>23 consider to be the root cause of -- of the incident</p> <p>24 and what more so would have likely prevented the</p> <p>25 incident from occurring had additional procedures</p> | <p>(Page 25)</p> <p>1 first means?</p> <p>2 MS. HERRERA: Objection, form.</p> <p>3 THE WITNESS: Again, I -- I think it</p> <p>4 could be defined in a number of different industries,</p> <p>5 but in -- in my opinion and experience it is</p> <p>6 certainly designed to elevate the -- the level of</p> <p>7 participation and expectation to maintain a safe</p> <p>8 environment regardless of what else may be going on,</p> <p>9 and taking those steps to place safety above other</p> <p>10 factors that -- you know, that may also be competing</p> <p>11 for attention, if you will, but that safety is a top</p> <p>12 priority and in the location of the industry in which</p> <p>13 is using that slogan.</p> <p>14 Q. (BY MR. WILLIAMS) So you would say that</p> <p>15 you put safety above everything else?</p> <p>16 MS. HERRERA: Objection, form.</p> <p>17 THE WITNESS: Yeah. I mean, my</p> <p>18 opinion, and, obviously, what I've seen and taught</p> <p>19 and reviewed is that safety is a top priority and</p> <p>20 that safety first (unintelligible) that -- that</p> <p>21 slogan to ensure that that is easily reviewed and an</p> <p>22 easy reminder for people. I understand that -- that</p> <p>23 safety is -- is more important than anything else so</p> <p>24 that when you have the opportunity to correct a</p> <p>25 hazard that you stop and correct the hazard. So</p> |

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| <p>(Page 26)</p> <p>1 before you go and, you know, take a -- a lunch break, 2 or before you go and stock your shelf, for example, 3 if you see an unsafe condition, safety first. And -- 4 and that's the premise of having that awareness 5 campaign, if you will, for -- for companies to ensure 6 that is in place. 7 Q. (BY MR. WILLIAMS) Do you have an opinion 8 on whether Walmart must put safety first or safety 9 above everything else? 10 MS. HERRERA: Objection, form. 11 THE WITNESS: Well, it's certainly a 12 practice that is put into place, and so I guess my 13 opinion is that safety is a priority and would be 14 first above taking care of other task items, if you 15 will. 16 Q. (BY MR. WILLIAMS) Why do you believe that? 17 A. Well, certainly, I'll speak to the 18 experience at Walmart, and some of the other 19 businesses would apply the same principle, is you 20 just don't want to injure people, whether it's your 21 customers, whether it's your associates, you want 22 them to be able to -- to walk out of the store the 23 same way they came in. Again, whether they're 24 working or shopping you -- you want to maintain 25 safety for the benefit of their -- their personal</p> | <p>(Page 28)</p> <p>1 Q. I'm going to show you what's marked as 2 Plaintiff's Exhibit 2. 3 MR. WILLIAMS: And then for the record 4 I marked his CV as Plaintiff's Exhibit 1. 5 Q. (BY MR. WILLIAMS) Okay. Mr. Melia, do you 6 see what I'm marking as Plaintiff's Exhibit 2? 7 A. Yes. Is that the -- yeah, ASTM standard, 8 yes. 9 Q. Now, is -- you said the ASTM standard. 10 Is this document the American Society 11 for Testing and Material Standard? 12 A. Yes, that's correct. 13 Q. Okay. And are you familiar with this 14 standard? 15 A. I am. 16 Q. And is this more of the industry standards 17 regarding a safe entrance mat? 18 A. Yes. There is a section in this document, 19 I think it starts at 5.4, and that discusses mats and 20 runners as they are often referred to. 21 Q. And what does the applicable industry 22 standard say regarding the American Society for 23 Testing and Materials? 24 MR. PATTERSON: Form. 25 THE WITNESS: Well, I can certainly</p> |
| <p>(Page 27)</p> <p>1 health and their personal safety. 2 Q. Do you have an opinion on whether Walmart's 3 day-to-day business is more important than the safety 4 of its customers? 5 MS. HERRERA: Objection, form. 6 THE WITNESS: Well, you know, my 7 opinion would be that -- that it is interwoven, or 8 should be interwoven, into the day-to-day business, 9 so it is as important as anything else that -- that 10 is to be done, and safety, whether it's a risk of a 11 [SIC] accident or incident or violent situation is a 12 top priority above anything else. 13 Q. (BY MR. WILLIAMS) Now, should Walmart ever 14 place profits over safety? 15 MS. HERRERA: Objection, form. 16 THE WITNESS: Again, I would say that 17 that is not a good business practice for any company 18 to have unsafe conditions that exist and in -- you 19 know, with the opportunity to save a -- a dollar, if 20 you will, which is my -- my experience and -- and 21 understanding. 22 Q. (BY MR. WILLIAMS) And are you familiar 23 with the industry standards for maintaining a safe 24 entrance mat? 25 A. I am, yes.</p> | <p>(Page 29)</p> <p>1 read from the document in front of me as well, but 2 expectations, the standards that apply here, are to 3 include entrance -- or -- or mats and runners at the 4 entrance. Obviously, inclement weather is one of the 5 key focus points because you have not only a -- a 6 transition potentially from outside to inside, but 7 the mats are designed to provide that number of steps 8 and transition if you're bringing water into a store, 9 you know, based upon precipitation, whether it's 10 rain, sleet, snow, et cetera. So many of these 11 standards are designed for that. There's points in 12 there in relation to how they are to be maintained to 13 not create pedestrian hazards in a specific point. 14 If you want me to continue. I'm sorry. 15 Q. (BY MR. WILLIAMS) Yeah. Let me just 16 highlight this for you real quick. 17 Do you see the section that's titled 18 5.46? 19 A. Yes. That -- that was the point I was 20 going to -- yes, sir. 21 Q. Okay. Can you read that standard for me, 22 please? 23 MS. HERRERA: Objection, form. 24 THE WITNESS: Sure. 5.4.6 states, 25 mats, runners and areas rugs shall be maintained so</p> |

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| <p>(Page 30)</p> <p>1 as to -- it says to -- I'm sorry -- to not create 2 pedestrian hazards, mats, runners and area rugs shall 3 not have loose or frayed edges, worn areas, holes, 4 wrinkles or other hazards that may cause a trip 5 occurrence. 6 Q. (BY MR. WILLIAMS) Do you agree with the 7 standard? 8 A. I do. 9 MS. HERRERA: Objection, form. 10 Q. (BY MR. WILLIAMS) Why is that? 11 A. Well -- 12 MS. HERRERA: Objection, form. 13 THE WITNESS: -- it -- it's a standard 14 -- 15 MR. PATTERSON: (Zoom failure), Lucas? 16 MR. WILLIAMS: What's that? 17 MS. HERRERA: You want an agreement 18 that one objection's good for all. 19 MR. WILLIAMS: Sure. I don't think it 20 matters much. 21 MS. HERRERA: Agreed for Walmart 22 Defendants [SIC]. I -- I did not agree then [SIC]. 23 MR. WILLIAMS: Yeah. Yeah. It 24 doesn't matter. You can -- it's -- but, sure. 25 It's -- it's fine.</p> | <p>(Page 32)</p> <p>1 matting? 2 A. Yes, I see that. 3 Q. And do you see at Section 8.10 of this 4 standard? 5 A. I do, yes. 6 Q. And can you read that standard to me, 7 please, on the left side of the table? 8 MS. HERRERA: Objection, form. 9 THE WITNESS: It's in reference to 10 mats. And the -- the point made here in 8.10 is mats 11 may buckle and not lay flat while in service where 12 traffic may catch and curl the border or the end of 13 the mat, and, obviously, all those create hazards. 14 And it cites a number of solutions for ensuring that 15 their edges are not curled or cannot be at risk of 16 moving as either -- and my opinion I'm not reading 17 directly from this, but as carts roll over areas, or 18 people walk over areas, to ensure that the mats 19 remain in place and that the edges are not curled 20 or -- or worn. 21 Q. (BY MR. WILLIAMS) Mr. Melia, do you see 22 what I've just highlighted? 23 A. Yes, I do. 24 Q. Okay. Can you read that to me, please? 25 A. Yes.</p> |
| <p>(Page 31)</p> <p>1 Q. (BY MR. WILLIAMS) Anyways, let me reask 2 that question. 3 Why do you agree with that statement, 4 Steven -- or Mr. Melia? 5 A. Well, the standard -- procedures and 6 standards are generally created due to a known 7 history of incidents occurring, and so my agreement 8 with it is certainly in a -- the publication that 9 provides direction and clarity for the industry in 10 relation to this, and also cite my experience in 11 knowing risks that can occur when a -- mats or carpet 12 areas are not maintained or they may have loose or 13 frayed edges or curled. In addition to mats that 14 are -- are not properly placed at an entrance during 15 inclement weather leaves that risk of some slip 16 occurrence more prevalent in areas where you don't 17 have a -- a mat transition from outside to inside 18 during inclement weather. 19 Q. Can you see my screen fine? 20 A. I can. 21 Q. Do you see that I'm showing you what's been 22 marked as Plaintiff's Exhibit 3? 23 A. Yes, I can see that. 24 Q. Do you see that this document is the 25 American National Standard on commercial entrance</p> | <p>(Page 33)</p> <p>1 MS. HERRERA: Objection, form. 2 THE WITNESS: 8.10. Mats not lying 3 flat. Where mats do not lie flat the mat shall be 4 secured to the floor so that it lies flat or is 5 removed from service. 6 Q. (BY MR. WILLIAMS) And do you agree with 7 this standard? 8 MS. HERRERA: Objection, form. 9 THE WITNESS: Well, I -- I don't 10 necessarily agree with it in 100 percent of the 11 cases. I believe there are environments and 12 industries that have to evaluate the best course of 13 action for placing a mat in determining how that mat 14 should be placed which could include it being secured 15 mechanically or otherwise or whether the mat should 16 be easily placed and removed, again, at different 17 times. So there are -- there's a -- a (Zoom failure) 18 to be made, but certainly I would not say across the 19 board. It would be dependent upon the environment or 20 location where the mat is placed. 21 Q. (BY MR. WILLIAMS) Do you agree that a -- a 22 mat should lie flat or it should be removed from 23 service? 24 A. That I agree with, yes. 25 Q. And why do you agree with that?</p> |

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| <p>(Page 34)</p> <p>1 MS. HERRERA: Objection, form.</p> <p>2 THE WITNESS: Well, if -- if the mat</p> <p>3 cannot be -- if it's not lying flat or -- and, again,</p> <p>4 it's one of the reasons you have to conduct a [SIC]</p> <p>5 evidence-based review and get to the root cause</p> <p>6 analysis, if it's not lying flat and the -- the edges</p> <p>7 or any portion of the mat is rippled, curled, edged</p> <p>8 in a way that creates a trip hazard, then certainly</p> <p>9 if it cannot be laid flat and cannot be secured then</p> <p>10 the next course of action is to remove that mat</p> <p>11 and -- and place a more appropriate mat in its place</p> <p>12 if it is deemed necessary.</p> <p>13 Q. (BY MR. WILLIAMS) Now, based on these</p> <p>14 standards when does an entrance mat become a trip</p> <p>15 hazard?</p> <p>16 MS. HERRERA: Objection, form.</p> <p>17 THE WITNESS: Well, it certainly would</p> <p>18 become a trip hazard if it is not laid flat in -- in</p> <p>19 the most simplistic terms.</p> <p>20 Q. (BY MR. WILLIAMS) Now, do you know if</p> <p>21 Walmart has its own internal standard for floor mats?</p> <p>22 A. I -- I do, yes.</p> <p>23 Q. Do you see that I'm on what's been Bates</p> <p>24 stamped as Walmart 143?</p> <p>25 A. Yes.</p> | <p>(Page 36)</p> <p>1 expectation.</p> <p>2 Q. And you see Line 3, Walmart's procedure?</p> <p>3 A. I do.</p> <p>4 Q. Is Walmart supposed to ensure that its mats</p> <p>5 lie flat on the floor?</p> <p>6 A. Yes.</p> <p>7 Q. And why is that?</p> <p>8 A. That goes back to the earlier standards</p> <p>9 that we referenced. It's -- many of the standards</p> <p>10 from my experience that -- that Walmart, and many</p> <p>11 other retailers for that matter, apply are gained</p> <p>12 through national standards, and -- and so the -- the</p> <p>13 fact that this is very consistent with the standards</p> <p>14 we referenced earlier is not surprising and -- and is</p> <p>15 expected to ensure you have safe walking and floor</p> <p>16 conditions.</p> <p>17 Q. Now, if Walmart notices that a mat is not</p> <p>18 lying flat what is it supposed to do?</p> <p>19 MS. HERRERA: Objection, form.</p> <p>20 THE WITNESS: Well, certainly the</p> <p>21 identification is -- is critical, but once it's</p> <p>22 identified even more critical is the immediate</p> <p>23 correction. So to answer your -- your question it is</p> <p>24 to correct the unsafe condition or remove the unsafe</p> <p>25 condition.</p> |
| <p>(Page 35)</p> <p>1 Q. And do you see that this document is marked</p> <p>2 as Plaintiff's Exhibit 4?</p> <p>3 A. I do see that, yes.</p> <p>4 Q. Are you familiar with this standard?</p> <p>5 A. I am, yes.</p> <p>6 Q. Is this Walmart's standard for maintaining</p> <p>7 the front end of its stores?</p> <p>8 A. It is the standard operating procedures,</p> <p>9 yes.</p> <p>10 Q. And what does the standard operating</p> <p>11 procedure mean here?</p> <p>12 A. It basically provides our -- or provides</p> <p>13 the management and the associates in the store with</p> <p>14 the expectation and the understanding of what that</p> <p>15 particular topic is addressing. In this case it's</p> <p>16 the -- the front end and the vestibule area</p> <p>17 specifically to create a safe environment for the</p> <p>18 entrance and exits.</p> <p>19 Q. All right. Do you see Line 2 of this</p> <p>20 standard operating procedure?</p> <p>21 A. I do.</p> <p>22 Q. All right. Is Walmart supposed to correct</p> <p>23 all trip hazards at the front of its store?</p> <p>24 A. Yes. Identify, correct any type of slip,</p> <p>25 trip-and-fall hazard would be the -- the standard</p> | <p>(Page 37)</p> <p>1 Q. (BY MR. WILLIAMS) And right here in the</p> <p>2 standard operating procedure Walmart even instructs</p> <p>3 its employees to discard and replace the floor mat;</p> <p>4 is that right?</p> <p>5 MS. HERRERA: Objection, form.</p> <p>6 THE WITNESS: Yes.</p> <p>7 Q. (BY MR. WILLIAMS) Why is Walmart supposed</p> <p>8 to do that?</p> <p>9 MS. HERRERA: Objection, form.</p> <p>10 THE WITNESS: (Unintelligible) the</p> <p>11 point I mentioned earlier about the goal is to -- to</p> <p>12 maintain a safe environment and to not create any</p> <p>13 hazards that would cause a person to be injured while</p> <p>14 shopping in the store.</p> <p>15 Q. (BY MR. WILLIAMS) Now, based on your</p> <p>16 knowledge and experience working at Walmart for more</p> <p>17 than 30 years do you know if Walmart employees are</p> <p>18 supposed to look for these trip hazards?</p> <p>19 MS. HERRERA: Objection, form.</p> <p>20 THE WITNESS: It -- it is an</p> <p>21 expectation, again, safe -- to place safety first</p> <p>22 that as they're walking in their general area of work</p> <p>23 or going to and from that they would be observant to</p> <p>24 and look for any unsafe condition, not just the floor</p> <p>25 or mats but any object (Zoom failure) that may (Zoom</p> |

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| <p>(Page 38)</p> <p>1 failure.</p> <p>2 Q. (BY MR. WILLIAMS) Okay. So as they're</p> <p>3 walking to and from wherever they are walking to and</p> <p>4 from they're supposed to be looking for unsafe</p> <p>5 conditions?</p> <p>6 A. Yes. As a general rule for all associates</p> <p>7 and management. Certainly there are more specific</p> <p>8 detailed positions generally referred to as -- as</p> <p>9 maintenance that would more specifically be looking</p> <p>10 for risks or hazards that may be evident, spills, et</p> <p>11 cetera, that they would be responsible for</p> <p>12 identifying and cleaning up or being called to a</p> <p>13 location to clean the area with the proper equipment.</p> <p>14 Q. Now, how is Walmart and its employees</p> <p>15 supposed to look for these hazards?</p> <p>16 MS. HERRERA: Objection, form.</p> <p>17 THE WITNESS: Well, it -- it starts</p> <p>18 with training and awareness, and that, you know,</p> <p>19 expectation of looking not just in one area but</p> <p>20 wherever you may be traveling in -- in throughout the</p> <p>21 store, that your awareness [SIC] and alert to unsafe</p> <p>22 conditions. And that is -- again, begins with</p> <p>23 documentation such as standard operating procedures,</p> <p>24 training that takes place, communication through</p> <p>25 weekly meetings, et cetera, to instill that knowledge</p> | <p>(Page 40)</p> <p>1 every hour for associates to stop from the -- the</p> <p>2 task at hand and -- and look and view their area as</p> <p>3 termed as a safety sweep. So that is the</p> <p>4 understanding that I have at this time.</p> <p>5 Q. (BY MR. WILLIAMS) And you believe doing a</p> <p>6 safety sweep every 30 minutes to an hour is a safe</p> <p>7 practice?</p> <p>8 MS. HERRERA: Objection, form.</p> <p>9 THE WITNESS: I believe it's a -- a</p> <p>10 good standard in the industry, in addition to what we</p> <p>11 discussed earlier with every associate, management,</p> <p>12 regardless of the time of day, but if they're walking</p> <p>13 to and from that they are observant to and looking</p> <p>14 for risks and correcting risks.</p> <p>15 Q. (BY MR. WILLIAMS) So -- so whenever you</p> <p>16 were talking I asked how they're supposed to identify</p> <p>17 trip hazards and two of the things I've got are that</p> <p>18 they're supposed to do safety sweeps and look for</p> <p>19 trip hazards while they're walking; is that fair?</p> <p>20 MS. HERRERA: Objection, form.</p> <p>21 THE WITNESS: That is correct. That</p> <p>22 is correct.</p> <p>23 Q. (BY MR. WILLIAMS) Now, when there is a mat</p> <p>24 that is not flush with the floor what is Walmart</p> <p>25 supposed to do?</p> |
| <p>(Page 39)</p> <p>1 and expectation in -- into the employees that work at</p> <p>2 a location.</p> <p>3 Q. (BY MR. WILLIAMS) What's a safety sweep?</p> <p>4 A. A safety sweep in Walmart terms and in --</p> <p>5 really in -- in the industry it [SIC] used by a</p> <p>6 variety of -- of companies is to do almost exactly</p> <p>7 what I described, it's to not necessarily sweep with</p> <p>8 a broom, as it's often sometimes thought of, it is to</p> <p>9 visually walk through areas to identify risks and is</p> <p>10 oftentimes done on a periodic basis, or it can be</p> <p>11 announced by management over -- over a PA system to</p> <p>12 conduct a safety sweep, and not uncommon in the</p> <p>13 industry. Again, it's that reminder to be vigilant</p> <p>14 in identifying and addressing unsafe conditions in a</p> <p>15 facility.</p> <p>16 Q. Now, how often are Walmart employees</p> <p>17 supposed to do a safety sweep and look for these trip</p> <p>18 hazards?</p> <p>19 MS. HERRERA: Objection, form.</p> <p>20 THE WITNESS: Well, it has certainly</p> <p>21 changed over the years, and I have, obviously, been</p> <p>22 out of specific day-to-day operations of Walmart for</p> <p>23 the past seven years. To my knowledge and</p> <p>24 understanding that is a -- a routine that is</p> <p>25 generally expected anywhere from every 30 minutes to</p> | <p>(Page 41)</p> <p>1 MS. HERRERA: Objection, form.</p> <p>2 MR. WILLIAMS: Did we lose him?</p> <p>3 MR. PATTERSON: I think maybe we did.</p> <p>4 MR. WILLIAMS: Well, let me</p> <p>5 (inaudible).</p> <p>6 Q. (BY MR. WILLIAMS) Let me just reask the</p> <p>7 question, okay, Mr. Melia.</p> <p>8 THE WITNESS: Stand by. Let me -- I'm</p> <p>9 not sure if this is on my end, but I received a</p> <p>10 notification of a [SIC] Internet signal connection</p> <p>11 issue.</p> <p>12 MR. WILLIAMS: Let's go off real</p> <p>13 quick.</p> <p>14 THE WITNESS: Okay. I -- I'm good.</p> <p>15 MR. WILLIAMS: You're good?</p> <p>16 THE WITNESS: If you-all can hear me,</p> <p>17 yeah. But everyone froze and then I lost everyone</p> <p>18 for a moment.</p> <p>19 Q. (BY MR. WILLIAMS) Okay. I'm going to</p> <p>20 reask my question. Okay?</p> <p>21 A. Yes, please.</p> <p>22 Q. When there is a mat that's not flush with</p> <p>23 the floor what is your opinion as to what Walmart is</p> <p>24 supposed to do?</p> <p>25 MS. HERRERA: Objection, form.</p> |

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| <p>(Page 42)</p> <p>1 THE WITNESS: You have really just a 2 few options, maybe two options. One is reposition 3 the mat to be -- ensure it is flush with the floor. 4 The second option, obviously, is to ensure it is the 5 correct mat for the location, that it's not going to 6 wrinkle or -- or buckle under the weight of shopping 7 carts going in and out, so then the proper mat is 8 important. And then the last one, obviously, is the 9 removal of a mat if it cannot be laid flat or laid 10 safely on a floor to allow customers to walk over. 11 MR. WILLIAMS: And what -- what was 12 the basis for that objection? 13 MS. HERRERA: Relevance. 14 Q. (BY MR. WILLIAMS) Do those standards apply 15 in this case? 16 A. Yes, they -- they do. 17 Q. And all of those standards we went over, 18 the two standards and Walmart's internal standards, 19 how do they apply in this -- in this case? 20 A. Well certainly giving direction in what not 21 only is considered the industry standards in -- 22 regarding the mats and the proper placement and 23 proper mat, but also Walmart's own standards. So the 24 importance is that it is clear that the policy and 25 the expectation is would -- and I would say</p> | <p>(Page 44)</p> <p>1 MS. HERRERA: (Unintelligible). 2 THE WITNESS: (Zoom failure). 3 MR. WILLIAMS: Yeah. Yeah. Yeah. 4 We're here. Can -- can you hear us? 5 THE WITNESS: Are you -- can you hear 6 me? 7 MR. WILLIAMS: Yes, sir. Yeah, I can 8 hear you there. 9 THE WITNESS: Lucas, can you hear me? 10 MR. WILLIAMS: There -- there you are. 11 THE WITNESS: Hello. Can you hear me? 12 MR. WILLIAMS: Yeah. Yeah. Your 13 video's cutting in and out on us. 14 THE WITNESS: Yeah. And I -- I 15 apologize. I could go to my phone if needed. We -- 16 the house is new and the cable company just came out 17 last week and buried the cable and we have had no 18 issues at all until right now, so I apologize. If we 19 need to -- if I need to try to go to my phone, we 20 can, but hopefully, I'm disconnecting a few other 21 WIFI devices so hopefully that will help. 22 MR. PATTERSON: Okay. 23 MS. HERRERA: Or sometimes if you do 24 just the audio through your phone it'll give you more 25 bandwidth on your video and it -- it might start</p> |
| <p>(Page 43)</p> <p>1 well-written to the extent that it lays clearly the 2 expectation for the management to follow the 3 execution of that is certainly where a risk can occur 4 when procedures are not followed [SIC]. 5 Q. Now, after you determine these industry 6 standards that apply did you learn the facts of the 7 case? 8 A. I did. 9 Q. And what did you learn? 10 A. I certainly learned from review of the 11 video, as well as the photographs, that this 12 particular mat in question that you see on Page 3 of 13 my report -- I don't know if my report's been 14 introduced yet -- but that the mat was clearly 15 rippled and not laid flat in the photograph, and from 16 the video observation points as well appears that the 17 mat and that location was the cause of Ms. Castro 18 (Zoom failure) -- 19 THE COURT REPORTER: Is he frozen for 20 you-all as well? 21 MR. WILLIAMS: Yeah. 22 THE COURT REPORTER: Okay. 23 MS. HERRERA: Yes. 24 MR. WILLIAMS: It's not me this time. 25 We're here. Can you hear us?</p> | <p>(Page 45)</p> <p>1 working. 2 THE WITNESS: Okay. 3 MS. HERRERA: We've -- we've all 4 become Internet savvy over the past couple of years 5 in trying to deal with bandwidth issues. 6 THE WITNESS: Yeah. I'm showing a 7 better connection now, but I am -- you guys are still 8 freezing up. 9 MR. WILLIAMS: Yeah. Let's say -- do 10 you mind calling in with your phone? Can you hear 11 us? 12 THE COURT REPORTER: I'm assuming 13 we're still on the record because the videographer 14 has not gotten us off. 15 THE VIDEOGRAPHER: We can be off the 16 record. The recording's been paused, so... 17 THE COURT REPORTER: Okay. 18 (Short recess taken.) 19 Q. (BY MR. WILLIAMS) Mr. Melia, earlier I 20 asked you if you learned the facts of the case; do 21 you remember? 22 A. Yes. 23 Q. What did you learn? 24 A. That Ms. Castro had completed making a 25 purchase at the register and as she was exiting,</p> |

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| <p>(Page 46)</p> <p>1 walking towards the exit door, she tripped and fell. 2 Q. And how did you learn that? 3 A. It was through the -- of course, the video 4 in addition into the incident report and the, of 5 course, deposition testimony that was provided from 6 Ms. Castro as to what -- what caused her to 7 trip-and-fall. 8 Q. And what did she trip-and-fall on? 9 A. As stated in the Walmart incident report it 10 stated that she tripped and fell on the entrance mat 11 as she was exiting the store. 12 Q. And did you look at photos of the mat taken 13 after the incident? 14 MR. PATTERSON: He's gone again. 15 THE COURT REPORTER: Off the record? 16 MS. HERRERA: Yeah. 17 MR. WILLIAMS: Uh-huh. 18 (Short pause in proceedings.) 19 THE VIDEOGRAPHER: On the record. 20 Q. (BY MR. WILLIAMS) Did you look at photos 21 of the mat taken after the incident? 22 A. I did. 23 Q. And I'm showing you what's been marked as 24 Plaintiff's Exhibit 5. Have you seen these photos 25 before today?</p> | <p>(Page 48)</p> <p>1 or five. There's one larger one on the very front of 2 this photo, one directly to the left, a smaller 3 imperfection, and then the sides, each side of the 4 mat, at least from this photograph, appear to have at 5 least two to three ripples along that long edge on 6 each side of the -- the mat that's shown here. 7 Q. (BY MR. WILLIAMS) Do you see that I'm 8 showing you what's been marked as Plaintiff's Exhibit 9 6? 10 A. Yes, I do. 11 Q. Do you see it's just this exact same photo 12 as the last one we went over except that it has red 13 circles around it? 14 A. Yes. 15 Q. Do you see those red circles are where the 16 curls are at? 17 A. That would be what I was describing as the 18 curls that I was identifying, or the ripples that I 19 was identifying as we spoke earlier. 20 Q. And how many curls do you see in this mat? 21 A. Well, again, from the photograph, as I 22 described earlier, the two (Zoom failure) identified 23 as the trip initiated from Ms. Castro and then the -- 24 the ones on the side. If you're asking how many 25 circles I see drawn in this photo, there are seven</p> |
| <p>(Page 47)</p> <p>1 A. Yes, I have. 2 Q. And you see that it's five photos? 3 A. Yes. 4 Q. What do you see in this photo? 5 MR. PATTERSON: Form. 6 THE WITNESS: It clearly shows a -- a 7 black carpeted mat at the entrance/exit to the -- to 8 the fuel station convenience store. 9 Q. (BY MR. WILLIAMS) Can we just call this 10 the mat? 11 A. Yes. 12 Q. Do you see any curls on this mat? 13 MS. HERRERA: Objection, form. 14 THE WITNESS: I do. I see curls and 15 ripples as I would describe them. 16 Q. (BY MR. WILLIAMS) Now, how many curls does 17 it take for a mat to become a trip hazard? 18 MS. HERRERA: Objection, form. 19 THE WITNESS: Well, it -- it certainly 20 only requires there to be one imperfection of a mat 21 that's not laying flat to become a trip hazard. 22 Q. (BY MR. WILLIAMS) And how many curls do 23 you see in this mat? 24 MS. HERRERA: Objection, form. 25 THE WITNESS: I -- I see at least four</p> | <p>(Page 49)</p> <p>1 circles identified. 2 Q. So you see seven curls in this mat? 3 MS. HERRERA: Objection, form. 4 THE WITNESS: Well, there are -- there 5 are certainly seven circles identified. It is my 6 representation that those are areas of a ripple or 7 a -- a curled section of the mat. 8 Q. Now, do you have a -- do you have an 9 opinion on whether these curls made this mat a trip 10 hazard? 11 MS. HERRERA: Objection, form. 12 THE WITNESS: I do. 13 Q. (BY MR. WILLIAMS) And what is that 14 opinion? 15 A. Well, in my opinion, it is a risk. It is a 16 trip hazard based on the mat not lying flat and the 17 risk of someone catching one of those curled sections 18 or ripples in the mat that would potentially cause a 19 trip-and-fall to occur. 20 Q. Looking at this photo is this mat flat or 21 flush with the floor? 22 MS. HERRERA: Objection, form. 23 MR. PATTERSON: Objection, form. 24 THE WITNESS: It is -- it is not. 25 It's just a different angle of the -- the same</p> |

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| <p>(Page 50)</p> <p>1 incident photo that was provided, and it is not lying 2 flat, it is – indicates the ripples as we described 3 previously. 4 Q. (BY MR. WILLIAMS) And do you have an 5 opinion on whether the mat not lying flat on the 6 ground is a trip hazard? 7 A. Yes, I do. 8 Q. And what's that opinion? 9 MR. PATTERSON: Form. 10 THE WITNESS: Well, the opinion is 11 that if the mat is not lying flat it does represent a 12 risk of a trip-and-fall hazard. 13 MR. WILLIAMS: And, Evan, what was the 14 basis for that objection? 15 MR. PATTERSON: Ambiguous, vague, 16 speculation. 17 MR. WILLIAMS: On whether a mat lying 18 flat on the ground is a trip hazard is vague? 19 MR. PATTERSON: Correct. 20 Q. (BY MR. WILLIAMS) Now, Mr. Melia, when I 21 say trip hazard what do you think I am referring to, 22 or how would you like to define the words trip 23 hazard? 24 A. I – I would define a trip hazard as any 25 type of object, piece of equipment or item that is on</p> | <p>(Page 52)</p> <p>1 would be, yes, the expectation would be to provide an 2 appropriate mat that does not create a tripping 3 hazard. 4 Q. (BY MR. WILLIAMS) And did this mat create 5 that tripping hazard? 6 MS. HERRERA: Objection, form. 7 THE WITNESS: It is my professional 8 opinion that it did, yes. 9 Q. (BY MR. WILLIAMS) Is Walmart supposed to 10 look and correct – excuse me. 11 Is Walmart supposed to look for and 12 correct trip hazards like this? 13 MS. HERRERA: Objection, form. 14 THE WITNESS: Yes. 15 Q. (BY MR. WILLIAMS) How so? 16 A. Part of the standard operating procedures 17 as discussed, the safety sweep, the observation, the 18 maintenance, folks assigned to inspecting the floors 19 to ensure they're safe, that is the – the standard 20 that not only Walmart but many – many companies in 21 the – in the retail grocery sector implement, and 22 the expectation is to inspect and correct the unsafe 23 condition before an incident occurs. 24 Q. Did you review any video to see if Walmart 25 looked for or found the trip hazards in the mat?</p> |
| <p>(Page 51)</p> <p>1 the floor that would cause an individual to – their 2 foot to make contact with that object or item that 3 would then cause them to trip over that said item and 4 cause a fall. Not all trips result in a fall, but it 5 is a trip-and-fall risk. 6 Q. And based on that definition of trip hazard 7 do you believe that this mat is a trip hazard? 8 A. I do, yes. 9 Q. And why is that? 10 A. Because it is not lying flat and the 11 ripples indicated, as we've discussed, creates that 12 potential for a person to catch their foot or their 13 shoe in the rippled part of the mat that would cause 14 them to potentially lose balance and trip-and-fall. 15 Q. Okay. And if a mat is a trip hazard is it 16 a safe or an unsafe mat? 17 MS. HERRERA: Objection, form. 18 THE WITNESS: Well, certainly it would 19 be an unsafe mat. 20 Q. (BY MR. WILLIAMS) And is Walmart supposed 21 to provide safe mats to its customers to use? 22 MS. HERRERA: Objection, form. 23 THE WITNESS: The expectation would be 24 to provide a safe walking surface. In this case 25 we're obviously referring to a mat, then the answer</p> | <p>(Page 53)</p> <p>1 MS. HERRERA: Objection, form. 2 THE WITNESS: I did review the video 3 that was provided by Walmart. 4 MR. WILLIAMS: And what was the -- 5 what was your basis there for that objection? 6 MS. HERRERA: Leading, counsel's 7 testifying, misstates evidence, mischaracterizes 8 evidence. I can go on if you -- 9 MR. WILLIAMS: Yeah. Go on. 10 MS. HERRERA: -- care for me to. You 11 just proceed with your questioning of him. 12 MR. WILLIAMS: Oh, okay. 13 Q. (BY MR. WILLIAMS) Did you review any video 14 in this case? 15 A. Yes, I did. 16 Q. What for? 17 A. Again, the purpose of – somewhat of a 18 forensic analysis, to go back and review an incident 19 you want to obtain as many of the facts as you can as 20 they were represented at the time of the incident, 21 that includes video, photographs, witness statements, 22 et cetera. So the purpose was to go and look at and 23 make observations as to the activity that was taking 24 place and the actual incident itself to help 25 determine that root cause.</p> |

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| <p>(Page 54)</p> <p>1 Q. Okay. And whenever you reviewed the video</p> <p>2 did you learn if Walmart looked for or found trip</p> <p>3 hazards in the mat?</p> <p>4 MS. HERRERA: Objection, form.</p> <p>5 THE WITNESS: Certainly there was only</p> <p>6 a period of time, approximately an hour, prior to the</p> <p>7 incident the video provided. While I believe there</p> <p>8 were Walmart associates in and around the area and</p> <p>9 walking past the mat there was no indication during</p> <p>10 that period of time that there was any identification</p> <p>11 and certainly no action to remove the mat prior to</p> <p>12 the incident.</p> <p>13 Q. (BY MR. WILLIAMS) Can you see my screen</p> <p>14 fine, sir?</p> <p>15 A. Yes.</p> <p>16 Q. And I'll put on the record that I'm going</p> <p>17 to mark this as Exhibit 7 which is the video.</p> <p>18 Do you recognize this video?</p> <p>19 A. I do.</p> <p>20 Q. And have you reviewed it before today?</p> <p>21 A. I have, yes.</p> <p>22 Q. And do you see that I'm on the 9 minute 49</p> <p>23 second mark of this video?</p> <p>24 A. Unfortunately, I have to testify that based</p> <p>25 on me reviewing this from my phone it is difficult</p> | <p>(Page 56)</p> <p>1 MS. HERRERA: I'm good.</p> <p>2 MR. WILLIAMS: Okay. Well, we'll --</p> <p>3 we'll stay on it. Whatever works on you-all</p> <p>4 (unintelligible).</p> <p>5 THE WITNESS: Yeah. It's going to</p> <p>6 take me just a minute to get to.</p> <p>7 MS. HERRERA: What was Exhibit 6</p> <p>8 again?</p> <p>9 MR. WILLIAMS: The curls in the mat.</p> <p>10 The red circles.</p> <p>11 MS. HERRERA: The other -- all the</p> <p>12 red -- okay. Has his report been numbered yet? I</p> <p>13 need to know. Well, just for the record, since we're</p> <p>14 on the record we do object to having just been</p> <p>15 provided with his report today, the day of his</p> <p>16 deposition, but we're still prepared to go forward.</p> <p>17 MR. WILLIAMS: You didn't get the</p> <p>18 report before today?</p> <p>19 MS. HERRERA: It was not --</p> <p>20 MR. PATTERSON: It was an affidavit.</p> <p>21 MS. HERRERA: We didn't -- it wasn't</p> <p>22 produced to us before today.</p> <p>23 THE WITNESS: Working as quickly as I</p> <p>24 can, folks, to get -- to get back to this.</p> <p>25 MR. WILLIAMS: Was the affidavit any</p> |
| <p>(Page 55)</p> <p>1 for me to read the -- the numbers, so I don't know</p> <p>2 that I can testify to that. Let the record reflect</p> <p>3 whatever it may show on the larger screen.</p> <p>4 Q. Okay. I'll represent to you that we're on</p> <p>5 the 9 minute 49 second mark of this video. Okay?</p> <p>6 A. Okay.</p> <p>7 Q. And as I'm playing this video can you just</p> <p>8 see how many Walmart's employees are behind the</p> <p>9 counter?</p> <p>10 A. Well, is it playing right now? Because it</p> <p>11 appears to be stopped.</p> <p>12 Q. No, no. Just asking you to -- if you're</p> <p>13 going to be able to do that?</p> <p>14 A. It -- I see at least one and possibly two.</p> <p>15 It's, unfortunately, a little difficult to tell. If</p> <p>16 you play it then I may see the activity that would</p> <p>17 draw a better answer.</p> <p>18 Q. Okay. Are you able to look at this video</p> <p>19 on your computer screen?</p> <p>20 A. Give me a minute, I will see if I have it.</p> <p>21 I had to shut down and restart when I was trying to</p> <p>22 do this on the computer so this may take a moment.</p> <p>23 MR. WILLIAMS: You guys want to go off</p> <p>24 the record and take a break while he does that?</p> <p>25 MR. PATTERSON: Up to you.</p> | <p>(Page 57)</p> <p>1 different than the report?</p> <p>2 MR. PATTERSON: Yeah. One's 20 pages.</p> <p>3 MR. WILLIAMS: Well, I guess you-all</p> <p>4 got it the same time I did. My report or my thing is</p> <p>5 just an affidavit, so that's -- that's what I got</p> <p>6 ready to mark, so I don't think it makes any</p> <p>7 difference on any of the questions I'm going to ask,</p> <p>8 though, so...</p> <p>9 THE WITNESS: All right. We may have</p> <p>10 to proceed without the video. I believe I had to</p> <p>11 download it to a laptop and not my desktop, and this</p> <p>12 was months back, so I'm not going to be able to get</p> <p>13 to it. I can try to log back in on my desktop for</p> <p>14 this video deposition so perhaps I can see it in a</p> <p>15 larger screen, but just due to technical difficulties</p> <p>16 I apologize. I certainly can see the video once it's</p> <p>17 playing on my phone. I don't think it'll be any</p> <p>18 different than what my recollection is from watching</p> <p>19 the video in the past.</p> <p>20 Q. (BY MR. WILLIAMS) Okay. You ready to</p> <p>21 proceed then?</p> <p>22 A. Yes. Let's try to continue.</p> <p>23 Q. Okay. Mr. Melia, I'm on the 9 minute 38</p> <p>24 second mark of this video. I'll represent that to</p> <p>25 you. Okay?</p> |

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| <p>(Page 58)</p> <p>1 A. Okay.</p> <p>2 Q. How many people do you see behind the</p> <p>3 counter?</p> <p>4 A. So I see three Walmart associates behind</p> <p>5 the counter.</p> <p>6 Q. Do you see four Walmart associates behind</p> <p>7 the counter?</p> <p>8 A. I do now, yes. One just left.</p> <p>9 Q. Now, does the mat seem close or far from</p> <p>10 where these employees are at?</p> <p>11 A. It's just across the counter from where</p> <p>12 they are ringing up customers. So I was able to</p> <p>13 observe two of the associates leave the register and</p> <p>14 walk past the mat.</p> <p>15 Q. And you were able to observe that with the</p> <p>16 video being played to the 10 minute 25 second mark,</p> <p>17 right?</p> <p>18 A. Again, if the record reflects that time</p> <p>19 frame. I -- I can't conclusively state that. I</p> <p>20 don't have visual on that.</p> <p>21 Q. Now, how many people -- or excuse me.</p> <p>22 How many Walmart employees did you see</p> <p>23 walk over the mat?</p> <p>24 A. Two.</p> <p>25 Q. And could those two employees had noticed</p> | <p>(Page 60)</p> <p>1 the trip hazards in the mat?</p> <p>2 A. Yes.</p> <p>3 Q. Did the employee do so?</p> <p>4 A. No, they did not.</p> <p>5 Q. And I'll represent to you that -- excuse</p> <p>6 me.</p> <p>7 I'll represent to you that I'm on the</p> <p>8 47 minute 45 second mark of the video. Okay?</p> <p>9 A. Okay.</p> <p>10 Q. How many people do you see in the store at</p> <p>11 this time?</p> <p>12 A. I believe I -- there is one person behind</p> <p>13 the counter.</p> <p>14 Q. Is that person a Walmart employee?</p> <p>15 A. It would appear so, yes. Yes, they are.</p> <p>16 Q. Now, I'm going to play this video for about</p> <p>17 20 to 30 seconds. All right. Do you see that I just</p> <p>18 played the video to the -- or excuse me.</p> <p>19 I'll represent to you that I played</p> <p>20 the video to the 48 minute 6 second mark. Okay?</p> <p>21 A. Okay.</p> <p>22 Q. How many people are in that store during</p> <p>23 the time?</p> <p>24 A. There's only one visible through this angle</p> <p>25 of the video.</p> |
| <p>(Page 59)</p> <p>1 the trip hazard in the mat?</p> <p>2 MS. HERRERA: Objection, form.</p> <p>3 THE WITNESS: I would believe that</p> <p>4 that would have been noticeable, yes.</p> <p>5 Q. (BY MR. WILLIAMS) Could they have</p> <p>6 corrected the trip hazards in the mat?</p> <p>7 MS. HERRERA: Objection, form.</p> <p>8 THE WITNESS: Yes, I believe they</p> <p>9 could have.</p> <p>10 Q. (BY MR. WILLIAMS) And did they do so here?</p> <p>11 A. They did not.</p> <p>12 Q. Okay. I'll represent to you that we're on</p> <p>13 the 46 minute and 3 second mark of the video. Okay?</p> <p>14 A. Okay. Okay.</p> <p>15 Q. And I'll represent to you that we just</p> <p>16 played the video to the 46 minute and 20 second mark</p> <p>17 of the video. Okay?</p> <p>18 A. Okay.</p> <p>19 Q. Did you notice a third Walmart employee</p> <p>20 walk over the mat?</p> <p>21 A. I did. He was pushing a rolling cart.</p> <p>22 Q. And could that employee have also noticed</p> <p>23 the trip hazard in the mat?</p> <p>24 A. He could have, yes.</p> <p>25 Q. And could that employee also have corrected</p> | <p>(Page 61)</p> <p>1 Q. And who is that?</p> <p>2 A. It was the Walmart associate that left from</p> <p>3 behind the counter and then returned.</p> <p>4 Q. And when she returned from behind the</p> <p>5 counter did she look towards the entrance mat?</p> <p>6 A. I can't speak to what direction her eyes</p> <p>7 were -- were looking. She was walking towards that</p> <p>8 direction before she -- before she turned -- left to</p> <p>9 go behind the -- the counter and then into the back</p> <p>10 room it appears.</p> <p>11 Q. And when she was walking towards that</p> <p>12 direction could she have noticed a trip hazard in the</p> <p>13 mat if she looked?</p> <p>14 MS. HERRERA: Objection, form.</p> <p>15 THE WITNESS: I believe that would be</p> <p>16 observed, yes.</p> <p>17 Q. (BY MR. WILLIAMS) And could she have</p> <p>18 corrected the trip hazards in the mat?</p> <p>19 A. Yes.</p> <p>20 MS. HERRERA: Objection, form.</p> <p>21 Q. (BY MR. WILLIAMS) Did she do so?</p> <p>22 A. She did not take any action towards the</p> <p>23 mat.</p> <p>24 Q. And there was no one in the store during</p> <p>25 this time, was there?</p> |

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| <p>(Page 62)</p> <p>1 A. Again, I only have this portion of the 2 video. I know there's one other angle that I did 3 view from the side looking towards the -- the doors 4 and the mat, but I don't have full view of the video, 5 so I can't answer that conclusively. 6 Q. Did you see -- did you see anyone else in 7 the store during this video? 8 A. No, not for the time frame that you just 9 represented. 10 Q. And could this employee have safely removed 11 this mat without interfering with other customers? 12 A. Yes. 13 Q. And could this employee have safely removed 14 the mat without interfering with Walmart's day-to-day 15 business? 16 A. Certainly could have, yes. 17 Q. Sir, do you see that I paused this video? 18 A. I do, yes. 19 Q. Okay. And I'll represent to you that I'm 20 on the 53 minute 26 second mark of the video. Okay? 21 A. Okay. 22 Q. Sir, do you see that I've paused this 23 video? 24 A. I do, yes. 25 Q. And I'll represent to you that I've paused</p> | <p>(Page 64)</p> <p>1 A. I did see that same employee, yes, walk 2 past the mat and turn to the right. 3 Q. And is that the fourth employee of Walmart 4 that we've seen walk past this mat in this video? 5 A. That would be correct, yes. 6 Q. And how many people did you see in the 7 store (Zoom failure) the mat? 8 A. Again, there were -- there was one customer 9 that walked out just prior to this associate walking 10 towards the mat and then turning to the right just 11 past the mat. 12 Q. So whenever she walked past the mat there's 13 no one else in the store at the time store; is that 14 right? 15 A. Again, I want to qualify based on the -- 16 the video angles that we have available I believe 17 there's more parts to the store, but on this video 18 that is correct. 19 Q. Then when the -- a fourth Walmart employee 20 walked past the mat could she have noticed the trip 21 hazard in that mat? 22 MS. HERRERA: Objection, form. 23 THE WITNESS: Yes. 24 Q. (BY MR. WILLIAMS) And could she have 25 corrected the trip hazard in the mat?</p> |
| <p>(Page 63)</p> <p>1 the video at the 53 minute 30 second mark. Okay? 2 A. Okay. 3 Q. How many people are in the store at this 4 time? 5 A. One customer appears to have just exited 6 the store you see at the top of the screen, and then 7 you have the one employee associate that has just 8 walked out from behind the counter towards the -- 9 towards the doors. 10 Q. And is that Walmart employee walking 11 towards the mat? 12 A. It appears that she is at this point 13 towards the mat and the Gatorade display that is 14 there. 15 Q. Is that Gatorade display orange? 16 A. It is, yes. 17 Q. And is that the same orange Gatorade 18 display that we see in the photos? 19 A. It is, yes. 20 Q. Is this the -- I'll represent to you that I 21 just played the video to the 53 minute 35 second 22 mark. Okay? 23 A. Okay. 24 Q. Did you see a fourth Walmart employee walk 25 past the mat?</p> | <p>(Page 65)</p> <p>1 A. Yes. 2 MS. HERRERA: Objection, form. 3 Q. (BY MR. WILLIAMS) All right. Did she do 4 so? 5 A. No. 6 Q. And could this employee once again have 7 safely removed this mat without interfering with 8 customers at this time? 9 MS. HERRERA: Objection, form. 10 THE WITNESS: Yes. 11 Q. (BY MR. WILLIAMS) And could this employee 12 once again have safely removed this mat without 13 interfering with Walmart's day-to-day business at 14 this time? 15 MS. HERRERA: Objection, form. 16 THE WITNESS: Yes. 17 Q. (BY MR. WILLIAMS) Okay. Earlier you said 18 that Walmart was supposed to do a safety sweep every 19 30 minutes to an hour; do you remember? 20 A. Yes, I do. 21 Q. And what is Walmart supposed to do during a 22 safety sweep again to find these trip hazards? 23 A. The description in the operating procedures 24 are to walk the aisles in the space in your work area 25 and visibly look for, identify and correct any -- any</p> |

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| <p>(Page 66)</p> <p>1 unsafe conditions that you might find.</p> <p>2 Q. Are these employees supposed to be</p> <p>3 intentionally looking for trip hazards?</p> <p>4 A. Yes. That is the -- the purpose of</p> <p>5 conducting the safety sweep on a -- on a regular</p> <p>6 basis.</p> <p>7 Q. Did you see any evidence of Walmart doing a</p> <p>8 safety sweep in that video?</p> <p>9 MS. HERRERA: Objection, form.</p> <p>10 THE WITNESS: No, not on the -- the</p> <p>11 video that we observed.</p> <p>12 Q. (BY MR. WILLIAMS) Did you see any evidence</p> <p>13 of any Walmart employee intentionally looking for a</p> <p>14 trip hazard in that video?</p> <p>15 MS. HERRERA: Objection, form.</p> <p>16 THE WITNESS: Again, they -- if they</p> <p>17 were they -- there were no actions taken, so I -- I</p> <p>18 don't want to -- I never want to speak to what they</p> <p>19 may have been thinking or what they saw through their</p> <p>20 eyes, but no actions were taken to correct the -- the</p> <p>21 mat.</p> <p>22 Q. (BY MR. WILLIAMS) Now, what does that</p> <p>23 indicate to you?</p> <p>24 A. I'm sorry. Could you ask that...</p> <p>25 Q. Sure. Earlier in --</p> | <p>(Page 68)</p> <p>1 Q. (BY MR. WILLIAMS) But did Walmart ever</p> <p>2 find or correct this trip hazard?</p> <p>3 A. Not until after the incident occurred. It</p> <p>4 was -- the mat was removed but not prior to at -- at</p> <p>5 least for the hour of video that we have.</p> <p>6 Q. Would it have been helpful to have video</p> <p>7 for more than an hour before this incident?</p> <p>8 MS. HERRERA: Objection, form.</p> <p>9 THE WITNESS: I don't believe it would</p> <p>10 have been necessary. It's standard to retain video</p> <p>11 an hour prior to and an hour after an incident</p> <p>12 occurs, so while it may have provided more footage of</p> <p>13 what did or didn't occur, for me, it's reviewing the</p> <p>14 incident investigation, it was sufficient to -- to</p> <p>15 see that you -- the condition of the mat and what had</p> <p>16 taken place prior to and -- and after the incident.</p> <p>17 Q. (BY MR. WILLIAMS) Was just that hour of</p> <p>18 video sufficient for you to learn whether or not</p> <p>19 Walmart should have noticed the mat was a dangerous</p> <p>20 condition?</p> <p>21 A. Yes, that was sufficient for me.</p> <p>22 Q. And why is that?</p> <p>23 A. Well, you have a period of time where you</p> <p>24 have -- well, the customers, but an associate's</p> <p>25 walking through and past the area and we had</p> |
| <p>(Page 67)</p> <p>1 A. I'm not sure what you're referencing.</p> <p>2 Q. Yes.</p> <p>3 Earlier I -- I asked you if you saw</p> <p>4 any evidence of Walmarks [SIC] doing a safety sweep</p> <p>5 and you said no; do you remember?</p> <p>6 A. Yes.</p> <p>7 Q. What does that indicate to you?</p> <p>8 A. Well, it -- it could indicate a number of</p> <p>9 things. It certainly, first and foremost, could</p> <p>10 indicate a lack of training. It could indicate a</p> <p>11 lack of awareness of the procedure or simply a lack</p> <p>12 of execution of the -- of the expected procedure.</p> <p>13 Q. Would Walmart have noticed the trip hazards</p> <p>14 in the mat if they did a safety sweep?</p> <p>15 MS. HERRERA: Objection, form.</p> <p>16 THE WITNESS: Again, it is -- yes, it</p> <p>17 is likely proper observation would have identified</p> <p>18 that.</p> <p>19 Q. (BY MR. WILLIAMS) Is it more likely than</p> <p>20 not Walmart would have found the trip hazards in the</p> <p>21 mat if they did a safety keep?</p> <p>22 MS. HERRERA: Objection, form.</p> <p>23 THE WITNESS: Yes. And it's my</p> <p>24 opinion that it would have and could have been</p> <p>25 identified.</p> | <p>(Page 69)</p> <p>1 opportunity -- the associates would have had an</p> <p>2 opportunity to identify and remove or -- or correct</p> <p>3 the unsafe condition.</p> <p>4 Q. And do you have an opinion on whether that</p> <p>5 mat was a dangerous condition at the time of the</p> <p>6 incident?</p> <p>7 MR. PATTERSON: Form.</p> <p>8 THE WITNESS: I do.</p> <p>9 Q. (BY MR. WILLIAMS) Okay. And what's that</p> <p>10 opinion?</p> <p>11 A. Well, certainly based on the condition of</p> <p>12 the mat not lying flat it created the risk exposure</p> <p>13 for this incident to occur.</p> <p>14 Q. And do you have an opinion on whether</p> <p>15 Walmart should have noticed the mat was a dangerous</p> <p>16 condition --</p> <p>17 MS. HERRERA: Objection, form.</p> <p>18 Q. (BY MR. WILLIAMS) -- at the time of the</p> <p>19 incident?</p> <p>20 A. I do.</p> <p>21 Q. And what's that opinion?</p> <p>22 A. That it certainly would have been imminent</p> <p>23 and more likely than not would have been noticed.</p> <p>24 Q. What do you mean by would have been</p> <p>25 noticed?</p> |

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| <p>(Page 70)</p> <p>1 A. Based on observations that the 2 observation's been made and -- and conducted by the 3 associates walking through the store, or even through 4 the front doors as they were exiting, the opportunity 5 was there to identify the unsafe condition and take 6 actions to remove it.</p> <p>7 Q. And why do you believe that Walmart should 8 have noticed the mat was a dangerous condition?</p> <p>9 MS. HERRERA: Objection, form.</p> <p>10 THE WITNESS: Well, again, relying on 11 the -- the knowledge that there would have been 12 sufficient training, and the standard procedures are 13 well documented to specifically look for the 14 condition of mats at the entrance of the store, that 15 would be the basis of that opinion.</p> <p>16 Q. (BY MR. WILLIAMS) And do you believe that 17 condition was there long enough for Walmart to find 18 it?</p> <p>19 MS. HERRERA: Objection, form.</p> <p>20 THE WITNESS: I do, yes.</p> <p>21 Q. (BY MR. WILLIAMS) And why is that?</p> <p>22 A. Well, it is a small area, it's not a large 23 footprint of the stores, a smaller confined space, 24 and you've got to -- got to consider four associates 25 working in or passing through that area would have</p> | <p>(Page 72)</p> <p>1 not been in the condition it was at the location at 2 the time that it would have eliminated that risk as 3 Ms. Castro was walking towards the exit.</p> <p>4 Q. And what do you mean by eliminated a risk?</p> <p>5 A. Well, then you have -- when you have 6 conditions that are present that -- that pose a risk 7 for a trip hazard, obviously, you have to mitigate 8 that risk by either correcting the unsafe condition 9 or removing it completely. And as I've stated, one 10 of my reference materials, the -- the hierarchy of 11 controls that -- that OSHA often refers to is -- is 12 simply that, the -- the opportunity to once a risk is 13 identified take the appropriate steps to correct or 14 mitigate, substitute or remove the condition so that 15 it does not continue to pose a risk.</p> <p>16 Q. And do you have opinion [SIC] -- excuse me. 17 Do you have an opinion on whether 18 Walmart was supposed to pick up this mat?</p> <p>19 MS. HERRERA: Objection, form.</p> <p>20 THE WITNESS: Well, certainly I'll 21 offer this, and it's in -- in my opinions in the 22 report, in typical expectations and standard 23 operating procedures in those that are in the Walmart 24 guidelines and the -- the mats themselves are 25 utilized when there's inclement weather, and the type</p> |
| <p>(Page 71)</p> <p>1 provided enough time and opportunity to identify the 2 risk and correct it.</p> <p>3 Q. Okay. If this testimony -- excuse me. 4 If there is testimony and evidence 5 that this mat had been on the floor for six days 6 before this incident do you believe that Walmart 7 would have or certainly should have noticed this mat 8 was in a dangerous condition?</p> <p>9 MS. HERRERA: Objection, form.</p> <p>10 THE WITNESS: Well, I certainly do not 11 want to speculate, of course, on the condition of the 12 mat for the prior days. I only have the information 13 available for the -- the time frame of the video, so 14 it'd be difficult for me to -- to draw any 15 determinations prior to the condition of the mat in 16 the prior days.</p> <p>17 Q. (BY MR. WILLIAMS) And do you have an 18 opinion on whether this incident would have occurred 19 had Walmart noticed the trip hazards and picked up 20 the mat?</p> <p>21 MS. HERRERA: Objection, form.</p> <p>22 THE WITNESS: Well, certainly, yes, I 23 do have an opinion on that.</p> <p>24 Q. (BY MR. WILLIAMS) And what's that opinion?</p> <p>25 A. I certainly believe that had the -- the mat</p> | <p>(Page 73)</p> <p>1 of mat is important for those situations, so I cite 2 in my report as one of the opinions that it did not 3 appear to be raining or had rained based on the video 4 and sunshine coming through, so I do have a question 5 as to the necessity of the mat being placed there at 6 this time of the incident, and then certainly had an 7 observation been made that could have easily been 8 removed since it was not raining prior to the 9 incident which would have, of course, removed the 10 risk.</p> <p>11 Q. (BY MR. WILLIAMS) Did Walmart ever pick up 12 this mat before the incident?</p> <p>13 A. For the time frame of one hour that I have 14 reviewed prior to the -- the mat was not picked up in 15 that one-hour time frame prior to Ms. Castro tripping 16 on it.</p> <p>17 Q. And did Walmart violate any industry 18 standards in not picking up the mat?</p> <p>19 A. Well, the industry standard would be to 20 ensure that mats were laying flat properly, so to 21 that regard failure to identify, and -- and, yes, 22 failure to correct the unsafe condition, would be 23 that -- that violation of the standard to maintain a 24 safe environment.</p> <p>25 Q. Did Walmart also violate its own standard</p> |

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| <p>(Page 74)</p> <p>1 in not picking up the mat?</p> <p>2 MS. HERRERA: Objection, form.</p> <p>3 THE WITNESS: It did in not</p> <p>4 identifying and correcting the -- the unsafe</p> <p>5 condition.</p> <p>6 Q. (BY MR. WILLIAMS) And do you have an</p> <p>7 opinion on whether this incident would have occurred</p> <p>8 had Walmart picked up this mat?</p> <p>9 A. Well, certainly, it is my opinion that</p> <p>10 the -- the risk -- the -- the fact that the mat was</p> <p>11 curled, if -- if there was no mat there, then to</p> <p>12 answer your question there would -- there would be no</p> <p>13 risk of tripping on a mat.</p> <p>14 MR. WILLIAMS: Okay. Guys, do you</p> <p>15 mind if I take a break and review my notes?</p> <p>16 MR. PATTERSON: Sure.</p> <p>17 MS. HERRERA: No problem.</p> <p>18 THE WITNESS: And -- and I'd like to</p> <p>19 try to get logged back in. We'll use my phone as a</p> <p>20 standby, but while we're on break I'm going to try to</p> <p>21 log in on my computer. It looks like I've got a good</p> <p>22 connection.</p> <p>23 MR. WILLIAMS: Okay. Thanks.</p> <p>24 THE WITNESS: Five minutes?</p> <p>25 MS. HERRERA: Yep.</p> | <p>(Page 76)</p> <p>1 A. Typically, it's every 30 minutes to an</p> <p>2 hour.</p> <p>3 Q. And so two safety sweeps were supposed to</p> <p>4 occur on that video?</p> <p>5 MS. HERRERA: Objection, form.</p> <p>6 THE WITNESS: Yes. And, again, at --</p> <p>7 the size or the format and the footprint can often</p> <p>8 make a difference, but, typically, 30 minutes to an</p> <p>9 hour would be standard for a -- a safety sweep of --</p> <p>10 of an area where an associate is working.</p> <p>11 Q. (BY MR. WILLIAMS) And had Walmart done</p> <p>12 that safety sweep, found the mat, removed the mat,</p> <p>13 would we be here today?</p> <p>14 MS. HERRERA: Objection, form.</p> <p>15 THE WITNESS: Yes, my opinion that the</p> <p>16 risk would have been -- had it been removed then the</p> <p>17 incident would not have happened, so, no, we probably</p> <p>18 would not be here today.</p> <p>19 MR. WILLIAMS: I'll pass the witness.</p> <p>20 EXAMINATION</p> <p>21 BY MS. HERRERA:</p> <p>22 Q. All right. Mr. Melia, I'm going to go</p> <p>23 first asking you some question. I'm Elizabeth</p> <p>24 Herrera. I represent the Walmart defendants in this</p> <p>25 case. And just for the record, I'm going to</p> |
| <p>(Page 75)</p> <p>1 THE VIDEOGRAPHER: Off the record at</p> <p>2 3:42.</p> <p>3 (Short recess taken.)</p> <p>4 THE VIDEOGRAPHER: Okay. On the</p> <p>5 record at 3:55.</p> <p>6 Q. (BY MR. WILLIAMS) Now, Mr. Melia, earlier</p> <p>7 you described how Walmart must put safety above</p> <p>8 everything else; do you remember?</p> <p>9 A. Yes. We were discussing safety first.</p> <p>10 Q. Did Walmart do that here, did Walmart put</p> <p>11 safety above everything else in this case?</p> <p>12 MS. HERRERA: Objection, form.</p> <p>13 THE WITNESS: Well, they certainly did</p> <p>14 not identify the risks associated with the mat, so I</p> <p>15 would answer it that way.</p> <p>16 Q. (BY MR. WILLIAMS) All right. And did they</p> <p>17 do a safety sweep in the hour that you watched that</p> <p>18 video?</p> <p>19 MS. HERRERA: Objection, form.</p> <p>20 THE WITNESS: There was no evidence of</p> <p>21 a safety sweep in -- in my understanding of a safety</p> <p>22 sweep that was performed in the hour meaning after</p> <p>23 the incident.</p> <p>24 Q. (BY MR. WILLIAMS) And how often are they</p> <p>25 supposed to do them?</p> | <p>(Page 77)</p> <p>1 introduce your affidavit as Exhibit A. And you did</p> <p>2 have a paper copy of that; is that right, Mr. Melia?</p> <p>3 A. That is correct.</p> <p>4 Q. And how many pages is your paper copy just</p> <p>5 so I can make sure I've -- we have the same one?</p> <p>6 A. Three.</p> <p>7 Q. And then you also have a copy of your</p> <p>8 report, which I have as 23 pages, there with you?</p> <p>9 A. That is correct.</p> <p>10 Q. Okay. I'm going to go ahead and mark that</p> <p>11 report as Exhibit 9. And in looking at what we've</p> <p>12 marked as Exhibit 9, your report, that also includes</p> <p>13 your CV there, which I believe has also been included</p> <p>14 as Exhibit 1. Is -- is the CV that's attached there</p> <p>15 as Exhibit B -- or Appendix B to your report more</p> <p>16 updated than that other one or is this -- or is this</p> <p>17 also an older one?</p> <p>18 A. It would be an older one that was submitted</p> <p>19 at the time of this report, so it would likely be the</p> <p>20 one that we reviewed earlier, the original question.</p> <p>21 Q. And also included with your report on Page</p> <p>22 22 is your testimonial history. This, then, would</p> <p>23 also have been current as of the date the report was</p> <p>24 authored.</p> <p>25 So do you have other testimonial</p> |

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| <p>(Page 78)</p> <p>1 history since the date the report was authored?</p> <p>2 A. Yes. I do not have an updated one in front</p> <p>3 of me, but I can certainly supplement that. But I</p> <p>4 believe there's been at least one or two more</p> <p>5 depositions since this report was submitted.</p> <p>6 Q. And in addition to the one or two</p> <p>7 additional depositions have you testified at trial at</p> <p>8 all since February 2022?</p> <p>9 A. I -- I will need to look. I would like to</p> <p>10 verify that through some record at some point. We</p> <p>11 can do it maybe at the next break. I should be able</p> <p>12 to pull that up and answer that affirmatively, but I</p> <p>13 don't want to guess.</p> <p>14 Q. And then what we'll do is, is if you do</p> <p>15 find an -- updated documents or updated information</p> <p>16 for your testimonial history we'll include that as</p> <p>17 Exhibit 10 to your deposition and we can just confirm</p> <p>18 that later. That's fine.</p> <p>19 A. Yeah. I'd be happy to (Zoom failure)</p> <p>20 depositions included.</p> <p>21 Q. Do you also have an updated CV?</p> <p>22 A. I do.</p> <p>23 Q. Let's attach an updated CV, then, as</p> <p>24 Exhibit 11.</p> <p>25 A. Okay.</p> | <p>(Page 80)</p> <p>1 Q. And other than reading through your report</p> <p>2 and your affidavit did you review any other documents</p> <p>3 to prepare for your deposition today?</p> <p>4 A. No, I did not review necessarily. Pulled</p> <p>5 some of my paper copy documents of some of the</p> <p>6 standards that have been discussed, or at least the</p> <p>7 ones that I had provided in the appendix as</p> <p>8 documentation reviewed or relied upon for -- for my</p> <p>9 opinions.</p> <p>10 Q. And that -- that was going to be my next</p> <p>11 question.</p> <p>12 So on Page 15 of your report, Appendix</p> <p>13 A, it has the list of documents that you've reviewed</p> <p>14 for this case.</p> <p>15 Are -- other than what's included in</p> <p>16 that list have you -- you reviewed anything else with</p> <p>17 respect to this case?</p> <p>18 A. No. That should be the -- the complete</p> <p>19 list at the time of this report.</p> <p>20 Q. And since the time the report was authored</p> <p>21 have you reviewed any new documents or information</p> <p>22 with respect to this case?</p> <p>23 A. I do not believe I have, but I would need</p> <p>24 to check. I know I did not amend the report. I am</p> <p>25 fairly certain that no new documentation has been</p> |
| <p>(Page 79)</p> <p>1 Q. And you can send that to us as well after</p> <p>2 the deposition. That's fine.</p> <p>3 And your fee schedule is also attached</p> <p>4 as Appendix D on Page 23 of your report.</p> <p>5 Is this your current fee schedule?</p> <p>6 A. I -- I would say, yes, on the hourly rates.</p> <p>7 I think recently we may have updated the mileage</p> <p>8 reimbursement, but that's minimal and I don't believe</p> <p>9 there was any mileage in this case, so -- but it is</p> <p>10 accurate for the -- the hour -- hourly rates for</p> <p>11 testimony and deposition and so forth.</p> <p>12 Q. What did you do to prepare for your</p> <p>13 deposition today?</p> <p>14 A. I read through my affidavit and read</p> <p>15 through my report.</p> <p>16 Q. Did you meet with or speak with</p> <p>17 Ms. Castro's attorneys?</p> <p>18 A. I did, yes.</p> <p>19 Q. And when did you speak to them?</p> <p>20 A. It was earlier this afternoon. I don't</p> <p>21 recall exactly. It would have been possibly around</p> <p>22 11:30 or 12 noon.</p> <p>23 Q. And for how long did you speak with them?</p> <p>24 A. I would estimate maybe five minutes, five</p> <p>25 to ten minutes.</p> | <p>(Page 81)</p> <p>1 provided since then, but fairly certain doesn't mean</p> <p>2 absolute, so I -- I may need to verify that.</p> <p>3 Q. And this document here, the -- the cover</p> <p>4 page states it's expert witness report with a date of</p> <p>5 February 16, 2022.</p> <p>6 Is that the only report that you've</p> <p>7 authored for this case?</p> <p>8 A. It is the only report. I also provided</p> <p>9 that affidavit, as we discussed, that was on, let's</p> <p>10 see, the 17th of February 2022.</p> <p>11 Q. When were you first contacted about being</p> <p>12 involved in this case?</p> <p>13 A. Let me refer back to my -- Page 2 of my</p> <p>14 report.</p> <p>15 It would have been on October 8th,</p> <p>16 2021.</p> <p>17 Q. And you have previously worked with the</p> <p>18 DeSouza Law Firm; is that right?</p> <p>19 A. Yes, I have.</p> <p>20 Q. About how many other cases have you</p> <p>21 reviewed for them in the past five years?</p> <p>22 A. I do not have an exact number in front of</p> <p>23 me. I would say at least five cases that I can feel</p> <p>24 comfortable stating.</p> <p>25 Q. And did each of these cases involve a</p> |

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| <p>(Page 82)</p> <p>1 slip-and-fall or trip-and-fall accident at a retail 2 store? 3 A. I would have to go back and refer to my 4 case history on what the DeSouza firm has retained me 5 for. I – it would – I would have to really confirm 6 that. 7 Q. How much have you billed the DeSouza firm 8 so far for this case? 9 A. I do not have a number in front of me. I 10 can get that to you as well. I'll certainly have the 11 invoicing that I have no problem submitting, you 12 know, based on the information, what I've reviewed in 13 the case and what I've billed for the case. I can 14 add that to my list if you'd like. 15 Q. Yes. Well, so we'll attach – I've got an 16 invoice here, and I'm going to see if I can share my 17 screen and you can take a look at this one. It's 18 dated February 17th of 2022. Let me know if you need 19 me to zoom in. 20 A. Yeah, you can -- you can -- 21 Q. Can you see that date? 22 A. Yes, I can. You can scroll down. That is 23 probably going to be the last invoice. I would say 24 that is most likely the most recent, and there have 25 been no other charges or documents reviewed, of</p> | <p>(Page 84)</p> <p>1 2015; is that right? 2 A. That is correct, yes. 3 Q. Does anyone else work for S. Melia 4 Consulting, LLC? 5 A. No. It is just myself. Of course, my wife 6 is wonderful at assisting with all of the information 7 related to invoicing and taxes and all the other 8 things that go with it, but she is not in any way 9 part of a -- a review, or document review, 10 testifying, et cetera. 11 Q. What does your company do? 12 A. So I have -- I started out after I left 13 Sam's Club and the practice area would be providing 14 litigation support in cases involving premise's 15 liability, either safety or security. 16 Q. And has that been the same since 2015, the 17 same line of work? 18 A. Yes. For S. Melia Consulting, that's 19 correct. 20 Q. And does S. Melia Consulting only do 21 litigation services? 22 A. That is all that I have done, yes. 23 Certainly available to conduct other risk assessments 24 and other types of security safety assessments, but 25 primarily it has all been in the area of litigation</p> |
| <p>(Page 83)</p> <p>1 course, other than what the invoicing for the time 2 today in deposition will be. 3 Q. And what is your hourly rate for your time 4 preparing for the deposition? 5 A. It would be 200 an hour, similar to the 6 document review preparation, and then 300 per hour 7 for actual deposition or trial testimony. 8 Q. And have you been retained to testify at 9 trial for this case? 10 A. I have, yes. 11 Q. Well, that -- that invoice that I pulled up 12 there we're going to just attach that as Exhibit 12 13 to your deposition. 14 And, Mr. Melia, you think that's your 15 most recent invoice; is that correct? 16 A. Yes, that is correct. 17 Q. When did you first begin doing expert 18 witness work? 19 A. It would have been in 2015. 20 Q. And in the CV that's attached as Appendix B 21 to your report it lists S. Melia Consulting, LLC, as 22 your current employer, your current company. 23 Is that your company? 24 A. Yes, it is. 25 Q. And you started that business in May of</p> | <p>(Page 85)</p> <p>1 support. 2 Q. So all of your work since 2015 through 3 Melia Consulting, LLC, has been providing expert 4 witness services for litigation; would that be 5 correct? 6 A. That is correct, yes. 7 Q. Right now what percentage of the time are 8 you retained by plaintiffs versus defense? 9 A. Are you talking about the course of the 10 seven years? 11 Q. Well, right now, your current case load. 12 A. Without looking I may only have one defense 13 case where I've been retained by defense. All the 14 others would be plaintiffs counsel that has retained 15 me. 16 Q. And about how many cases are in your case 17 load right now? 18 A. I have right at 30 cases currently. 19 Q. And just one of those 30 were you retained 20 by defense; is that right? 21 A. To the best of my recollection right now in 22 current cases, yes. 23 Q. Have your opinions ever been excluded from 24 a case by any court? 25 A. Yes, they have.</p> |

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| <p>(Page 86)</p> <p>1 Q. And how many times?</p> <p>2 A. There was an instance in, I believe, it was</p> <p>3 the State of Mississippi where the judge, based on</p> <p>4 the Daubert filings for both sides, had ruled that –</p> <p>5 that expert testimony was not necessary, so I was not</p> <p>6 allowed to testify in that case.</p> <p>7 Q. And that was another premise's liability</p> <p>8 case; is that correct?</p> <p>9 A. It was – yes, it was. Trying to draw</p> <p>10 memory from that one, yes. It's a few years ago.</p> <p>11 Q. And in that case the judge had determined</p> <p>12 that the information that you were providing would be</p> <p>13 the same as what the jury could decide for</p> <p>14 themselves; would that be fair to say?</p> <p>15 MR. WILLIAMS: Objection –</p> <p>16 THE WITNESS: In that case, yes.</p> <p>17 MR. WILLIAMS: – mischaracterization.</p> <p>18 Q. (BY MS. HERRERA) And in referring, again,</p> <p>19 to your CV and going through your educational</p> <p>20 background what is your highest level of education?</p> <p>21 A. So graduated from high school and then</p> <p>22 attended about a year and a half, two years, on and</p> <p>23 off at Sam Houston State University with general</p> <p>24 business management degree in mind, however, never</p> <p>25 completed that. I started working for Walmart while</p> | <p>(Page 88)</p> <p>1 A. In my experience over the years in</p> <p>2 developing policies and procedures for customers in</p> <p>3 many instances there are OSHA guidelines that help</p> <p>4 businesses identify risks to keep employees safe, and</p> <p>5 it is my experience, professional experience, that</p> <p>6 where you have risks for employees, if customers are</p> <p>7 also in those areas, that you have risks for</p> <p>8 employees, so the same mitigation standards would</p> <p>9 apply, although, obviously, OSHA does not regulate or</p> <p>10 inspect for customer incidents, but from a business</p> <p>11 perspective it is very common that many of the same</p> <p>12 practices to provide a safe environment for your</p> <p>13 employees also applies to customers.</p> <p>14 Q. So do you agree or disagree that OSHA would</p> <p>15 have no involvement in an accident like this one that</p> <p>16 involves a customer?</p> <p>17 A. I agree with that.</p> <p>18 Q. And this case is not about an accident that</p> <p>19 happened to an employee, right?</p> <p>20 A. That's correct.</p> <p>21 Q. And you left your employment with Walmart</p> <p>22 in 2015; is that correct?</p> <p>23 A. That is correct, yes.</p> <p>24 Q. And you had been with them for 31 years; is</p> <p>25 that – is that right?</p> |
| <p>(Page 87)</p> <p>1 I was in college and never went back to complete my</p> <p>2 degree.</p> <p>3 Q. So you do not have any college degree from</p> <p>4 any university; is that correct?</p> <p>5 A. That is correct.</p> <p>6 Q. So that also means, then, you do not have a</p> <p>7 college degree in safety or retail safety training as</p> <p>8 it pertains to customers or – or employees; is that</p> <p>9 right?</p> <p>10 A. That is correct.</p> <p>11 Q. And in reviewing your certifications you're</p> <p>12 also not certified in safety or retail safety as it</p> <p>13 pertains to customers; is that right?</p> <p>14 MR. WILLIAMS: Objection, vague.</p> <p>15 THE WITNESS: In – in what regard in</p> <p>16 certification? Clearly, there's OSHA certifications</p> <p>17 for safety which I've attended OSHA course [SIC] in</p> <p>18 the past with my time at Walmart. But, no, I do not</p> <p>19 currently hold any certifications in safety or safety</p> <p>20 engineering or anything of that nature.</p> <p>21 Q. (BY MS. HERRERA) Well, and OSHA</p> <p>22 certifications wouldn't apply to retail customers;</p> <p>23 would you agree?</p> <p>24 A. I disagree with that.</p> <p>25 Q. And why would you disagree with that?</p> | <p>(Page 89)</p> <p>1 A. Yes. By the time that I left.</p> <p>2 Q. Did you retire?</p> <p>3 A. It was – to explain it, a relocation, a</p> <p>4 reorganization, so – and I'll be brief – so 2010 we</p> <p>5 moved from Bentonville, Arkansas to Dallas, Texas to</p> <p>6 open the divisional office for Sam's Club, and we</p> <p>7 moved here, relocated. And then in 2015 the decision</p> <p>8 was made to reorganize again, all of the structure of</p> <p>9 the Sam's leadership, and move everyone back to</p> <p>10 Bentonville. At that point, the restructuring</p> <p>11 requirements were that everyone had to be displaced</p> <p>12 and reapply for positions and make a decision to</p> <p>13 move. So short story is I accepted a severance</p> <p>14 package and left employment to remain here in Dallas</p> <p>15 at that time.</p> <p>16 Q. And in looking through your CV, the</p> <p>17 different titles that you held at Walmart, your most</p> <p>18 recent one appears to have been as the director of</p> <p>19 asset protection; is that correct?</p> <p>20 A. It was director of asset protection, safety</p> <p>21 and compliance for Sam's Club. Senior director. I</p> <p>22 think you may have said that.</p> <p>23 Q. And the most recent position that you held</p> <p>24 with Walmart was as director of security and alarm</p> <p>25 services; is that right?</p> |

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| <p>(Page 90)</p> <p>1 A. That is correct, yes.</p> <p>2 Q. But while you were in the asset protection</p> <p>3 position you would have been aware of incidents where</p> <p>4 customers may have tripped or fallen or other types</p> <p>5 of accidents like that; is that right?</p> <p>6 A. Yes.</p> <p>7 Q. And based on your experience in that</p> <p>8 position you would agree, also, that just because a</p> <p>9 customer at a retail store falls it's not necessarily</p> <p>10 the store's fault, right?</p> <p>11 A. Well, it would certainly go back to the</p> <p>12 point earlier on conducting a -- a thorough accident</p> <p>13 investigation in determining the root cause. If</p> <p>14 you're asking if all falls are caused by either the</p> <p>15 company or the person who was injured that has -- has</p> <p>16 to be determined based on the facts, so they're --</p> <p>17 not to belabor the question, but a person could fall</p> <p>18 if there are no obstructions in just their stepping</p> <p>19 and their actions upon their own negligence.</p> <p>20 Q. Did you ever speak with Ms. Castro about</p> <p>21 this accident?</p> <p>22 A. I did not.</p> <p>23 Q. Or have you ever spoken with Ms. Castro at</p> <p>24 all?</p> <p>25 A. I have not.</p> | <p>(Page 92)</p> <p>1 trip hazard.</p> <p>2 If that's so would you agree that Ms.</p> <p>3 Castro also should have seen the mat and that it was</p> <p>4 a trip hazard and avoided the accident?</p> <p>5 MR. WILLIAMS: Objection, form.</p> <p>6 THE WITNESS: No, not necessarily.</p> <p>7 Q. (BY MS. HERRERA) And why not?</p> <p>8 A. So certainly --</p> <p>9 MR. WILLIAMS: Objection, form.</p> <p>10 THE WITNESS: -- I'm sorry?</p> <p>11 MR. WILLIAMS: Oh, it was just my</p> <p>12 objection for the record.</p> <p>13 THE WITNESS: Yeah. So certainly</p> <p>14 working in the industry and preventing incidents it</p> <p>15 is clear that policies and procedures are in place</p> <p>16 for employees, employers to inspect premises and make</p> <p>17 conditions safe. In my experience that's the</p> <p>18 expectation. Customers certainly would not have that</p> <p>19 same level of expectation, although they should be</p> <p>20 careful or they would -- they're typically walking</p> <p>21 and in looking at merchandise or the direction of</p> <p>22 their travel they're not required to inspect such as</p> <p>23 what an -- an employee or a business would be</p> <p>24 required to inspect premises for safety. So that's</p> <p>25 the reason I would disagree with that.</p> |
| <p>(Page 91)</p> <p>1 Q. Other than speaking to Ms. Castro's</p> <p>2 attorneys have you talked to anyone else about the</p> <p>3 accident or about this case?</p> <p>4 A. No, I have not. Just reviewed the facts</p> <p>5 and depositions and information that was available in</p> <p>6 conducting my assessment.</p> <p>7 Q. And the only documents that you reviewed</p> <p>8 about the accident were documents that were provided</p> <p>9 to you by Ms. Castro's lawyers; is that correct?</p> <p>10 MR. WILLIAMS: Objection, asked and</p> <p>11 answered.</p> <p>12 THE WITNESS: Well, like, there would</p> <p>13 have been documents produced by Walmart, photographs,</p> <p>14 incident reports, policies and procedures that came</p> <p>15 by way of the DeSouza Law Firm, of course, as well as</p> <p>16 depositions, and then the industry standards and</p> <p>17 information that I reviewed as well that's listed in</p> <p>18 the appendix.</p> <p>19 Q. (BY MS. HERRERA) And that is the Appendix</p> <p>20 A of your 23-page report; is that correct?</p> <p>21 A. I -- yes. Page 15 of 23, Appendix A, that</p> <p>22 is correct.</p> <p>23 Q. Now, earlier you had testified that three</p> <p>24 or four Walmart employees walking towards the mat on</p> <p>25 that video should have seen the mat and seen it was a</p> | <p>(Page 93)</p> <p>1 Q. (BY MS. HERRERA) You would agree, though,</p> <p>2 that customers also have a duty to exercise ordinary</p> <p>3 care in walking around at a retail store, right?</p> <p>4 MR. WILLIAMS: Objection, calls for a</p> <p>5 legal conclusion.</p> <p>6 THE WITNESS: And certainly --</p> <p>7 certainly believe everyone should take reasonable</p> <p>8 steps for their own safety.</p> <p>9 Q. (BY MS. HERRERA) Do you have any opinion</p> <p>10 in this case based on what you've seen in the</p> <p>11 photographs and on the video that Ms. Castro should</p> <p>12 or should not have been able to avoid tripping on the</p> <p>13 rug?</p> <p>14 A. It's my opinion that she did not do</p> <p>15 anything inappropriately or incorrectly as she was</p> <p>16 exiting the store. I believe she was acting as a</p> <p>17 normal customer leaving a location.</p> <p>18 Q. And on Page 3 of your report it includes</p> <p>19 the photograph of the mat that we were referencing</p> <p>20 before, and that photograph has also been included as</p> <p>21 exhibit -- the first photo, I believe, in Exhibit 5,</p> <p>22 that's been attached to your deposition.</p> <p>23 Are your opinions with respect to the</p> <p>24 condition of the mat at the time of the accident</p> <p>25 based on how the mat looks in those photographs?</p> |

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| <p>(Page 94)</p> <p>1 A. In those photographs, as well as the video 2 and the incident report, allowed me to draw the 3 conclusion that the condition of the mat is clear in 4 this photo as to what I testified to earlier with the 5 ripples and the imperfections of how it is not laying 6 flat onto the floor surface.</p> <p>7 Q. And those photographs that you're 8 referencing, you would agree, though, that these were 9 taken only after the accident had happened after that 10 mat had been picked up, put back down and those 11 pictures were taken, right?</p> <p>12 A. That is correct. They were taken by 13 Walmart in documenting the condition of the mat 14 that -- that caused the trip to occur.</p> <p>15 Q. So you'll agree, also, then, that those 16 photos do not show how the rug looked before 17 Ms. Castro's accident, correct?</p> <p>18 MR. WILLIAMS: Objection, 19 mischaracterization.</p> <p>20 THE WITNESS: That is correct. There 21 were no photos provided immediately at the time of 22 the incident. We have the video documenting that 23 condition of the mat prior to the incident and at the 24 time of and -- and after the incident.</p> <p>25 Q. (BY MS. HERRERA) And, Mr. Melia, you're</p> | <p>(Page 96)</p> <p>1 Q. Mr. Melia, my name's Evan Patterson. I 2 represent Cintas in this case. I just have a few 3 questions for you.</p> <p>4 I was looking through your opinions, 5 and I think one of them, I'm going to say -- I guess 6 it's opinion No. 1, is it your opinion that Ms. 7 Castro was walking as a normal customer and she did 8 not do anything to cause the incident; is that one of 9 your opinions?</p> <p>10 A. Yes, it is.</p> <p>11 Q. Would you agree with me that on the video 12 that we watched there was a number of other normal 13 customers who walked in the same place that Ms. 14 Castro did?</p> <p>15 A. I would say that that is correct based upon 16 walking over the mat. To state it was the exact same 17 location would be more difficult to state.</p> <p>18 Q. And would you agree with me that no else in 19 the video tripped over the mat?</p> <p>20 A. I would agree with that. I -- I would not 21 actually -- there was -- and it's -- it was after the 22 fact of Ms. Castro's fall, but when you watch the 23 video all the way through, when the paramedics 24 arrived, one of them actually didn't trip-and-fall 25 but caught their foot on the condition of the mat on</p> |
| <p>(Page 95)</p> <p>1 not a medical doctor, right?</p> <p>2 A. That's correct, I am not.</p> <p>3 Q. And you're not going to be offering any 4 opinions, then, on Ms. Castro's medical prognosis or 5 diagnosis; is that right?</p> <p>6 A. Correct.</p> <p>7 Q. And you are not offering any opinions on 8 her medical conditions or on injury causation; is 9 that correct?</p> <p>10 A. That is correct. To -- to the injury or 11 the extent of her injuries the causation as relation 12 to her tripping and falling is where I would offer my 13 opinions.</p> <p>14 Q. All right. So we -- we can agree to 15 distinguish between causation for injuries and 16 causation for the incident, but with respect to 17 causation for the injuries you're not offering those 18 opinions; is that right, Mr. Melia?</p> <p>19 A. That is correct.</p> <p>20 Q. All right.</p> <p>21 MS. HERRERA: That's all the questions 22 I have. I'll pass the witness.</p> <p>23 MR. PATTERSON: One second.</p> <p>24 EXAMINATION</p> <p>25 BY MR. PATTERSON:</p> | <p>(Page 97)</p> <p>1 the right-hand side as we're looking at that video, 2 so it's certainly after this incident, but it draws 3 the correlation for the condition of the mat and how 4 a foot could get caught underneath that mat.</p> <p>5 MR. PATTERSON: Objection, 6 nonresponsive.</p> <p>7 Q. (BY MR. PATTERSON) My question, I guess, 8 is a little bit different.</p> <p>9 Did you see any customers prior to 10 Nancy's fall trip on the mat?</p> <p>11 A. No, I did not.</p> <p>12 MR. WILLIAMS: Objection, asked and 13 answered.</p> <p>14 Q. (BY MR. PATTERSON) And earlier I think 15 what you were saying about the definition of a trip 16 hazard was it's anything that's on the floor that 17 could cause a person to catch their foot and 18 trip-and-fall; is that correct?</p> <p>19 A. It was the -- yes.</p> <p>20 Q. In so many words?</p> <p>21 A. In -- in so many -- yeah. Sure. Yeah.</p> <p>22 Q. If you need to elaborate, go ahead. I'm 23 just -- I don't -- you -- you can go back there, but 24 I'm just -- in so many words that's what I understood 25 it to mean; is that correct?</p> |

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| <p>(Page 98)</p> <p>1 A. Yes. And, typically, there would be in -- 2 in the -- what points of incident investigation there 3 is a cause agent, your object, a -- a fixture, if 4 it's a trip incident, of course, a slip incident 5 could be (unintelligible) and other substances, but 6 those are in many cases the -- the causes for 7 trip-and-fall incidents in the -- in a workplace or 8 an environment. 9 Q. And I'm going to show you my screen. This 10 is, I think -- I think I heard someone say this is 11 marked as Exhibit 5, but it's in your report. In any 12 case, it's the mat picture we've kind of been talking 13 about. 14 I see a raised lip there on the door. 15 Do you see that? 16 A. I do. 17 Q. Would you agree with me that under your 18 definition of a trip hazard that would also 19 constitute a trip hazard? 20 A. It -- it could, yeah. 21 Q. And that's something that every customer 22 just has to watch out for and make sure that they 23 don't trip over, correct? 24 A. That would be accurate. 25 Q. Because that's important for any person</p> | <p>(Page 100)</p> <p>1 A. The -- there's information that Cintas 2 provided the mats and that the -- nobody had offered 3 any direct opinions, but from recollection that 4 Walmart was to utilize and place the mats, replace 5 them if they are worn, tattered, and then put them in 6 the back room until the next service agreement is -- 7 or the next service from Cintas is made, so I do not 8 believe I correlated any specific direction or saw 9 any evidence that Cintas placed the mat there. It 10 certainly wasn't viewable in the video. 11 Q. Do you have any specific criticisms of 12 Cintas in this case? 13 MR. WILLIAMS: Objection, broad, 14 vague. 15 THE WITNESS: The -- certainly I 16 offered my opinion that the -- the type of mat and 17 the decision to utilize that size, that type of mat 18 at an entrance door in my experience would likely be 19 like a condition of a contract between Walmart and 20 the provider, in this case, Cintas. I do have an 21 opinion that I do not believe the mat was 22 appropriately positioned or placed, but I, again, do 23 not have any information to say that Cintas made the 24 decision on the timing or the placement of the mat. 25 Q. Okay.</p> |
| <p>(Page 99)</p> <p>1 who's walking to make sure that they don't trip over 2 things that are on the ground, right? 3 A. Well, again, in -- in the area of something 4 that is placed there in a normal condition of the 5 business or the expectation walking over a threshold 6 is certainly normal. I think it is different than 7 the condition of a mat, a mat in and of itself laid 8 properly would be easily to -- to traverse over in 9 the condition and the point that I referenced and my 10 findings was the mat was not laying flat which caused 11 the -- the risk to, you know, be present. 12 Q. Would you agree with me that a mat that -- 13 even if a mat is laying flat it can present a trip 14 hazard? 15 A. I don't believe it would cause necessarily 16 a trip hazard, although, certainly people can trip on 17 their own shoes. You know, that's obviously, been 18 shown over years of people walking. But in this case 19 the evidence that I reviewed reflects the risk 20 condition of being a -- not a normal condition which 21 created the risk. 22 MR. PATTERSON: I'll object to the 23 nonresponsive portion. 24 Q. (BY MR. PATTERSON) Do you have any 25 opinions about how Cintas laid the mat in this case?</p> | <p>(Page 101)</p> <p>1 MR. PATTERSON: That's all I've got. 2 EXAMINATION 3 BY MR. WILLIAMS: 4 Q. Okay. Mr. Melia, are you fine to continue 5 on or would you like a quick break? 6 A. I am good to continue considered all the 7 delays I created earlier. 8 Q. Okay. Mr. Melia, earlier you and a 9 Mr. Patterson were talking; do you remember that? 10 A. Yes. 11 Q. And you and Mr. Patterson were discussing 12 the threshold or and whether or not that's a trip 13 hazard; do you remember that? 14 A. I do. 15 Q. More likely than not is that threshold 16 going to cause someone to trip? 17 MS. HERRERA: Objection, form. 18 THE WITNESS: Again, it -- it is 19 something someone could trip over, but it is in a 20 consistent normal position and likely expectation of 21 someone stepping over a threshold entering into a 22 facility is considered a -- a normal condition in my 23 opinion where mats are placed differently at 24 different times either based on weather conditions or 25 other needs, and so I -- I do draw a distinction</p> |

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| <p style="text-align: right;">(Page 102)</p> <p>1 between a -- a permanent fixture at a known entryway 2 versus items that can be placed or moved, if you 3 will, in such -- such as the case with a mat. 4 Q. (BY MR. WILLIAMS) And, Mr. Melia, I 5 understand. 6 My question is: Is it more likely 7 than not or less likely than not that the threshold 8 is a trip hazard that you and Mr. Patterson 9 discussed? 10 MS. HERRERA: Objection, form. 11 THE WITNESS: Well, again, there is a 12 potential of a risk of someone stepping over a 13 threshold and hitting their foot causing them to 14 trip, so there is -- every case has to be reviewed 15 and determined, but if there were a trip over a 16 threshold there are guidelines and standards for the 17 height of thresholds and entryways, that would be a 18 totally different subject that I have not reviewed in 19 this case, but I'm aware of the standards for 20 elevation heights and -- and threshold standards for 21 standard entryways but not that I've reviewed to be 22 able to speak on at this time. 23 Q. (BY MR. WILLIAMS) Right. 24 And -- and my understanding is I could 25 win the lottery, but I'm probably not going to win</p> | <p style="text-align: right;">(Page 104)</p> <p>1 exhibit number. But, yes, I do recognize that 2 screenshot and that that is Ms. Castro. 3 Q. I -- I apologize for that. 4 Do you recognize this photo to be a 5 screenshot from the video of the incident? 6 A. Yes, I do. 7 Q. Okay. Do you see a dangerous position on 8 the mat? 9 A. Since one of the things that I identified 10 in reviewing the video the ripple in the mat is 11 evident from the video and from the screenshot [SIC]. 12 Q. And do you believe that this ripple in the 13 mat is a dangerous condition or not? 14 MS. HERRERA: Objection, form. 15 THE WITNESS: I do believe that if it 16 is not laying flat then I would characterize it as a 17 risk or a dangerous condition. 18 Q. (BY MR. WILLIAMS) And when you reviewed 19 the video did Nancy's foot get caught underneath that 20 curl in the mat? 21 MS. HERRERA: Objection, form. 22 THE WITNESS: Yes, that is my 23 conclusion. 24 Q. (BY MR. WILLIAMS) Excuse me. 25 When you reviewed the video where did</p> |
| <p style="text-align: right;">(Page 103)</p> <p>1 the lottery. And the same thing with this one, you 2 could trip over the threshold, but you're probably 3 not going to trip over the threshold; is that your 4 understanding as well? 5 MR. PATTERSON: Form. 6 MS. HERRERA: Objection, form. 7 THE WITNESS: Yeah. I -- I just -- I 8 hate to say, I'd have to, you know, review every case 9 as the information and facts present itself, so 10 I'm -- I'm not sure how I can answer that. 11 Q. (BY MR. WILLIAMS) Okay. I'm going to 12 share my screen with you. 13 MR. WILLIAMS: Elizabeth, you left off 14 at 12, Exhibit 12? 15 MS. HERRERA: Well, so we're on 13. 16 Q. (BY MR. WILLIAMS) Okay. I'm going to mark 17 this as Exhibit 13. Can you see my screen fine? 18 A. Yes, I can. 19 Q. And you recognize the person in the white 20 to be Nancy Castro? 21 A. Yes, I do. 22 Q. Okay. And do you understand that this is a 23 screenshot of the video which is Exhibit 7 in this 24 matter? 25 A. Yes, I'll accept that is -- that's the</p> | <p style="text-align: right;">(Page 105)</p> <p>1 Nancy's foot get caught under the mat? 2 MS. HERRERA: Objection, form. 3 THE WITNESS: It was at that point 4 another one from a separate angle that were the basis 5 of that conclusion that this was where her foot was 6 caught under that -- that area of ripple. 7 Q. (BY MR. WILLIAMS) And do you believe that 8 this incident could have been prevented had the mat 9 simply been picked up? 10 MS. HERRERA: Objection, form. 11 THE WITNESS: I do, yes. 12 Q. (BY MR. WILLIAMS) Okay. 13 MR. WILLIAMS: I'll pass the witness. 14 MS. HERRERA: We'll reserve. 15 MR. PATTERSON: I'm good. 16 MR. WILLIAMS: I don't have anything. 17 MR. PATTERSON: I think we both said 18 we're good. 19 MR. WILLIAMS: Ms. Moss, do you have 20 any spelling corrections or questions for us. 21 THE COURT REPORTER: I just need to 22 know if Ms. Herrera and Mr. -- where did he go -- 23 Patterson, do you guys want copies of this? 24 MS. HERRERA: Yes. 25 THE COURT REPORTER: What about you,</p> |

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| (Page 106) | (Page 108) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|---|-------------------|-------------------|---|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|----|-------|-------|---|
| <p>1 Mr. Patterson?</p> <p>2 MR. PATTERSON: No, I'm okay. Thank</p> <p>3 you.</p> <p>4 THE COURT REPORTER: Okay.</p> <p>5 THE WITNESS: And I would like to</p> <p>6 receive a copy and read and sign.</p> <p>7 THE COURT REPORTER: Okay.</p> <p>8 THE VIDEOGRAPHER: Are we okay to go</p> <p>9 off the record?</p> <p>10 MR. WILLIAMS: Yes.</p> <p>11 THE VIDEOGRAPHER: Off the record at</p> <p>12 4:36.</p> <p>13 (Whereupon, the proceedings were concluded.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p>1 I, STEPHEN MELIA, have read the foregoing</p> <p>2 deposition and hereby affix my signature that same is</p> <p>3 true and correct, except as noted above.</p> <p>4</p> <p>5</p> <p>6 _____</p> <p style="text-align: center;">STEPHEN MELIA</p> <p>7</p> <p>8 THE STATE OF _____)</p> <p>9 COUNTY OF _____)</p> <p>10 Before me, _____, on this day</p> <p>11 personally appeared STEPHEN MELIA, known to me (or proved</p> <p>12 to me under oath or through _____)</p> <p>13 (description of identity card or other document)) to be the</p> <p>14 person whose name is subscribed to the foregoing instrument</p> <p>15 and acknowledged to me that they executed the same for the</p> <p>16 purposed and consideration therein expressed.</p> <p>17 Given under my hand and seal of office this _____</p> <p>18 day of _____, _____.</p> <p>19</p> <p>20 _____</p> <p style="text-align: center;">NOTARY PUBLIC IN AND FOR</p> <p style="text-align: center;">THE STATE OF _____</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p style="text-align: right;">(Page 107)</p> <p>1 WITNESS CORRECTIONS AND SIGNATURE</p> <p>2 TO THE ORAL DEPOSITION OF</p> <p>3 STEPHEN MELIA</p> <p>4 Volume 1 of 1</p> <p>5 September 15, 2022</p> <p>6 Please indicate changes on this sheet of paper, giving</p> <p>7 the change, page number, and line number and reason</p> <p>8 for the change. Please sign each page of changes.</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">PAGE/LINE</th> <th style="width: 35%;">CORRECTION</th> <th style="width: 50%;">REASON FOR CHANGE</th> </tr> </thead> <tbody> <tr><td>9</td><td>_____</td><td>_____</td></tr> <tr><td>10</td><td>_____</td><td>_____</td></tr> <tr><td>11</td><td>_____</td><td>_____</td></tr> <tr><td>12</td><td>_____</td><td>_____</td></tr> <tr><td>13</td><td>_____</td><td>_____</td></tr> <tr><td>14</td><td>_____</td><td>_____</td></tr> <tr><td>15</td><td>_____</td><td>_____</td></tr> <tr><td>16</td><td>_____</td><td>_____</td></tr> <tr><td>17</td><td>_____</td><td>_____</td></tr> <tr><td>18</td><td>_____</td><td>_____</td></tr> <tr><td>19</td><td>_____</td><td>_____</td></tr> <tr><td>20</td><td>_____</td><td>_____</td></tr> <tr><td>21</td><td>_____</td><td>_____</td></tr> <tr><td>22</td><td>_____</td><td>_____</td></tr> <tr><td>23</td><td>_____</td><td>_____</td></tr> <tr><td>24</td><td>_____</td><td>_____</td></tr> <tr><td>25</td><td>_____</td><td>_____</td></tr> </tbody> </table> | PAGE/LINE | CORRECTION | REASON FOR CHANGE | 9 | _____ | _____ | 10 | _____ | _____ | 11 | _____ | _____ | 12 | _____ | _____ | 13 | _____ | _____ | 14 | _____ | _____ | 15 | _____ | _____ | 16 | _____ | _____ | 17 | _____ | _____ | 18 | _____ | _____ | 19 | _____ | _____ | 20 | _____ | _____ | 21 | _____ | _____ | 22 | _____ | _____ | 23 | _____ | _____ | 24 | _____ | _____ | 25 | _____ | _____ | <p style="text-align: right;">(Page 109)</p> <p>1 UNITED STATES DISTRICT COURT</p> <p>2 FOR THE WESTERN DISTRICT OF TEXAS</p> <p>3 SAN ANTONIO DIVISION</p> <p>4 NANCY CASTRO, &</p> <p>5 PLAINTIFF &</p> <p>6 &</p> <p>7 VS. &</p> <p>8 & Civil Action No.</p> <p>9 WAL-MART, INC., CINTAS & 5:1-CV-00702-XR</p> <p>10 CORPORATION NO. 2 D/B/A CINTAS &</p> <p>11 CORPORATION, WAL-MART STORES &</p> <p>12 TEXAS, LLC, AND WAL-MART REAL &</p> <p>13 ESTATE BUSINESS TRUST, &</p> <p>14 DEFENDANTS &</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |
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1 That the amount of time used by each party to the
2 deposition is as follows:
3 Mr. Lucas W. Williams - 1 hour and 42 minutes
Ms. Elizabeth Ferguson Herrera - 27 minutes
4 Mr. So and So Patterson - 6 minutes
5 I further certify that I am neither counsel for,
6 related to, nor employed by any of the parties or
7 attorneys in the action in which this proceeding was
8 taken, and further that I am not financially or
9 otherwise interested in the outcome of the action.
10 GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this
11 the 30th day of September, 2022.

12
13
14
15 _____
Christie L. Tawater, CSR 7352
16 Expiration Date: 12/31/2024
Firm Registration No. 189
17 Southwest Reporting & Video Service, Inc.
826 Heights Boulevard
18 Houston, Texas 77007
Phone: (713) 650-1800
19 Fax: (713) 650-6245
20
21
22

23 Job No. 57851
24
25

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